

Title 8**HEALTH AND SAFETY****Chapters:**

<u>8.04</u>	<u>Contagious Disease</u>
<u>8.05</u>	<u>Smoking Prohibited in Indoor Areas of Restaurants</u>
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Chapter 8.04**CONTAGIOUS DISEASE*****Sections:**

8.04.010 Report of cases--Statutes adopted.

8.04.020 Quarantine--Statutes adopted.

8.04.030 Handling foods--Statutes adopted.

8.04.010 Report of cases--Statutes adopted. All the provisions and amendments thereto of Section 143.04 of the Wisconsin Statutes are adopted and by reference made a part of this chapter. (Prior code §4.27).

8.04.020 Quarantine--Statutes adopted. All the provisions and amendments thereto of Section 143.05 of the Wisconsin Statutes are adopted and by reference made a part of this chapter. (Prior code §4.28).

8.04.030 Handling foods--Statutes adopted. All the provisions and amendments thereto of Section 143.08 of the Wisconsin Statutes are adopted and by reference made a part of this chapter. (Prior code §4.29).

* For statutory provisions regarding contagious disease, see WSA 143.04 et seq.

Chapter 8.05

SMOKING PROHIBITED IN INDOOR AREAS OF RESTAURANTS

Sections:

- 8.05.010 Definitions.**
- 8.05.020 Intent and purpose.**
- 8.05.030 Smoking prohibited.**
- 8.05.040 Signs required.**
- 8.05.050 Penalty.**
- 8.05.060 Severability.**
- 8.05.070 Effective date.**

8.05.010 Definitions. For purposes of this chapter, the following terms have the meaning indicated:

A. "Full service bar" shall mean a counter-like object with accessory seating for customers, over which fermented malt beverages or intoxicating liquors are sold for consumption upon the premises. A service bar without accessory seating for customers shall not be considered a full service bar.

B. "Smoking" shall mean to smoke, carry, possess or control any lighted tobacco product in any form, including, but not limited to cigars, cigarettes or pipes. (Ord. 6019, 2000).

8.05.020 Intent and purpose. It is recognized that smoking of tobacco-related products is hazardous to an individual's health and may affect the health of nonsmokers when in the presence of smokers in certain public places. This ordinance is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of the city of Eau Claire, especially recognizing the rights of nonsmokers who constitute a majority of the population. The provisions of this chapter shall be administered and enforced by the city-county health department with the assistance of the Eau Claire police department. (Ord. 6019, 2000).

8.05.030 Smoking prohibited. It shall be unlawful for any person to engage in smoking in all enclosed, indoor areas of any establishment requiring a restaurant license.

A. Exceptions.

1. Any establishment requiring a restaurant license whose sales of alcohol beverages is more than 50% of its gross receipts of the most recent alcohol beverage licensing year is exempt from the provisions of this chapter. Upon request, owners of establishments shall substantiate the percentage of their gross receipts devoted to food and alcohol beverage sales.

2. A full service bar, provided that it is in a separate room or fully separated by its location or the building construction from other dining areas.

3. Hardship provision. An establishment which realizes a loss of gross receipts greater than 15% as a result of complying with the provisions of this chapter for the 6 months following the effective date of this ordinance when compared to the preceding 6 months, may make a request to the city council for a temporary exception not to exceed 12 months. This provision, subsection 3., hardship provision, shall be automatically repealed on August 1, 2002. Upon request, the establishment shall provide sufficient information to substantiate its gross receipts.

4. Private functions. Rooms or areas in establishments subject to the provisions of s. 8.05.030 when used for private functions such as weddings, anniversaries, parties, receptions and other private events, if said rooms or areas are fully separated by location or building construction from the public dining areas.

B. Ashtrays, cigarette machines and other smoking paraphernalia shall not be placed in nonsmoking areas.

C. This subsection applies to restaurants within a mall, including adjacent seating. (Ord. 6019, 2000).

8.05.040 Signs required. A. Signs prohibiting smoking shall be posted conspicuously at every entrance by the proprietor or other person in charge of each building or structure regulated by s. 8.05.030. Signs shall contain a reference that regulation is by ordinance, such as "No Smoking - City Ordinance Chapter 8.05," or equivalent. The proprietor or other person in charge of premises regulated hereunder shall further make reasonable efforts to prevent smoking in prohibited areas by:

1. Approaching persons who fail to voluntarily comply with this chapter and request that they extinguish their smoking material and refrain from smoking upon witnessing the same or upon request from any person.

2. Any other means which may be deemed appropriate by said proprietor, including refusal of service to anyone smoking in a prohibited public area.

B. Establishments regulated by s. 8.05.030 shall post, in a conspicuous place at each entrance normally used by the public, a sign, provided by or approved by the health department, not smaller than 8 1/2" x 5 1/2", indicating whether they permit smoking or whether they are smoke-free.

C. It shall be unlawful for any person to remove, deface or destroy any legally required "No Smoking" sign, or to smoke in any place where any such sign is posted.

D. Inspections. It shall be the duty of the city-county health department, and it shall have the power, whenever it may deem necessary, to enter the premises named in this chapter to ascertain whether the signs required are posted, and to order the posting of such signs where required. A compliance time of not less than one week shall be granted. Upon failure to comply with such written or verbal order, a citation may be issued pursuant to the provisions of this code. (Ord. 6019, 2000).

8.05.050 Penalty. Any person who violates any provision of this chapter shall be required to forfeit neither less than \$50 nor more than \$500. Each day of violation shall constitute a separate offense. (Ord. 6019, 2000).

8.05.060 Severability. The provisions of this chapter are severable. If any provision of this chapter is held to be invalid or unconstitutional or if the application of any provision of this chapter to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this chapter which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the city council that this chapter would have been adopted had any invalid or unconstitutional provisions or applications not been included herein. (Ord. 6019, 2000).

8.05.065 Effective date. The provisions of this chapter shall become effective 90 days after the date of publication of this ordinance. (Ord. 6019, 2000).

Chapter 8.06

ADULT-ORIENTED ESTABLISHMENTS

Sections:

- 8.06.010 Purpose and intent.**
- 8.06.020 Definitions.**
- 8.06.030 Regulation of adult-oriented establishments.**
- 8.06.040 Application of chapter.**
- 8.06.050 Penalty.**

8.06.010 Purpose and intent. The City Council finds that several adult-oriented establishments exist within the City of Eau Claire and that their nature, design and intended use is conducive to high-risk sexual behavior. Such high-risk sexual behavior has the potential of exposing persons to, among other things, the Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS). AIDS is currently determined to be irreversible and uniformly fatal. This chapter is created to provide minimum standards for such adult-oriented establishments in order to protect the general health, safety and welfare of the citizenry, by regulating those features of adult-oriented establishments which tend to facilitate and promote high-risk sexual behavior and by providing regulations which aid in the surveillance and detection of unlawful activities within such premises. (Ord. 5247 §2, 1992).

8.06.020 Definitions. In this chapter the following words and phrases shall have the meaning as indicated, unless the context expressly requires otherwise:

A. "Adult-oriented establishment" means, but is not limited to, adult bookstores, adult motion picture theaters and any other premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purposes of viewing adult-oriented videotapes, films, motion pictures, or other offered adult entertainment, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

B. "Adult bookstore" means an establishment having as its stock in trade, for sale, rent, lease, inspection or viewing books, films, video cassettes, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment, for observation by patrons therein.

C. "Adult motion picture theater" means an enclosed building used for presenting materials having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein.

D. "Adult entertainment" means any exhibition of any videotape, film or motion picture of any type, which has as its dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated specified sexual activities or specified anatomical areas.

E. "Door, curtain or portal partition" means a nontransparent closure device which prevents activity taking place within a booth, room or cubicle from being seen or viewed.

F. "Operator" means any person operating, conducting, maintaining or owning any adult-oriented establishment.

G. "Specified sexual activities" means simulated or actual:

1. Showing of human genitals in a state of sexual stimulation or arousal;

2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus;

3. Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

H. "Specified anatomical areas" means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola;

2. Human male genitals in a discernible turgid state, even if opaquely covered. (Ord. 5247 §2, 1992).

8.06.030 Regulation of adult-oriented establishments. A. Any adult-oriented establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any adult entertainment shall comply with all of the following requirements:

1. Each such booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment, and shall be unobstructed, in total or in part, by any door, curtain or portal partition.

2. Each such booth, room or cubicle shall:

a. Be separated from all adjacent booths, rooms and cubicles and any non-public areas by a partition. All partitions shall be solid and without any openings, and shall extend from the floor to a height of not less than 6 feet. All partitions shall be light colored, non-absorbent, smooth textured and easily cleanable.

b. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying such booth, room or cubicle.

c. Have a floor which is light colored, non-absorbent, smooth textured and easily cleanable.

d. Be lighted in such a manner that a person in the booth, room or cubicle is reasonably visible from the adjacent public rooms or areas, but such lighting shall not be of such intensity as to prevent the viewing of videotapes, motion pictures or other offered entertainment.

3. No more than one person shall occupy any such booth, room or cubicle at any time. No occupant of any such booth, room or cubicle shall engage in any sexual activity, or cause any bodily discharge, or litter while in the booth, room or cubicle. No person shall alter, damage or deface any portion of any such booth, room or cubicle in such a manner that it no longer complies with the provisions of this chapter.

4. The premises of the adult-oriented establishment shall be maintained in a clean and sanitary manner at all times. (Ord. 5247 §2, 1992).

8.06.040 Application of chapter. The standards established in this chapter shall not apply to buildings, structures or premises which are lawfully operating as hotels, motels, apartment complexes or condominiums. (Ord. 5247 §2, 1992).

8.06.050 Penalty. A. Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator or as a result of the operator's negligent failure to supervise the employee's conduct. In such event, the operator shall be punishable under subsection B. for such act or omission in the same manner as if the operator committed the act or caused the omission.

B. Any person who violates, or knowingly allows or permits any violation of, any provision of this chapter, or any person who operates or permits the operation of any adult-oriented establishment in violation of this chapter, shall forfeit an amount not exceeding \$1,000 for each offense. Each day, or portion thereof, that a violation of this chapter exists or continues to exist shall constitute a separate offense. (Ord. 5247 §2, 1992).

Chapter 8.07

NUDE DANCING IN LICENSED ESTABLISHMENTS

Sections:

8.07.010 Authority and purpose.

8.07.020 Definitions.

8.07.030 Nude dancing in licensed establishments prohibited.

8.07.040 Exemptions.

8.07.050 Penalties.

8.08.060 Severability.

8.07.010 Authority and purpose. The city council of the city of Eau Claire has explicit authority under s. 125.10(1), Wis. Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in ch. 125, Wis. Stats., and has authority under its general police powers set forth in s. 62.11(5), Wis. Stats., to act for the good order of the municipality and for the health, safety and welfare of the public and may carry out its powers by regulation and suppression.

The city council recognizes it lacks authority to regulate obscenity in light of s. 66.051(3), Wis. Stats., and does not intend by adopting this ordinance to regulate obscenity, since nudity in and of itself is not obscene, and declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns.

The city council finds that bars and taverns featuring live, totally nude, non-obscene, erotic dancing have in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities, and to negatively affect the quality of life of the communities, and such secondary effects are detrimental to the public health, safety and general welfare of citizens.

The city council recognizes that the U.S. supreme court has held that nude dancing is expressive conduct within the outer perimeters of the first amendment to the United States constitution and therefore entitled to some limited protection under the first amendment, and the city council further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights. The city council is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the city council believes are detrimental to the public health, safety and welfare of the citizens of the city of Eau Claire, namely the potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses; the potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist; health risks associated with the spread of sexually transmitted diseases; and the potential for infiltration by organized crime for the purpose of unlawful conduct.

The city council thus desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the city of Eau Claire; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.

Therefore, the city council has determined that enactment of this chapter prohibiting live, totally nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcohol beverages promotes the goal of minimizing, preventing and controlling the negative, secondary effects associated with such activity. (Ord. 5953, 1999).

8.07.020 Definitions. For purposes of this ordinance, the term "licensed establishment" means any establishment licensed by the city council of the city of Eau Claire to sell alcohol beverages pursuant to ch. 125, Wis. Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", or "Class C" license granted by the city council of the city of Eau Claire pursuant to ch. 125, Wis. Stats. (Ord. 5953, 1999).

8.07.030 Nude dancing in licensed establishments prohibited. It is unlawful for any person to perform or engage in, or for any licensee, manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

- A. Shows his or her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or
- B. Shows any portion of the female breast below a point immediately above the top of the areola; or
- C. Shows the covered male genitals in a discernibly turgid state. (Ord. 5953, 1999).

8.07.040 Exemptions. The provisions of this ordinance do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing. (Ord. 5953, 1999).

8.07.050 Penalties. Any person, partnership, or corporation who violates any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$25 and not more than \$1,000 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this ordinance constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under s. 125.12, Wis. Stats. (Ord. 5953, 1999).

8.07.060 Severability. If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected. (Ord. 5953, 1999).

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Chapter 8.16

FOOD SERVICE ESTABLISHMENTS*

Sections:

- 8.16.010 Definitions.
- 8.16.020 License--Application.
- 8.16.030 License--Fee.
- 8.16.040 License--Suspension and revocation.
- 8.16.050 License--Public display.
- 8.16.060 Food, drinks examined for adulteration.
- 8.16.070 Inspection.
- 8.16.080 Sanitation requirements--Food service establishments.
- 8.16.090 Sanitation--Floors.
- 8.16.100 Sanitation--Walls and ceilings.
- 8.16.110 Sanitation--Doors and windows.
- 8.16.120 Sanitation--Lighting.
- 8.16.130 Sanitation--Ventilation.
- 8.16.140 Sanitation--Toilet facilities.
- 8.16.150 Sanitation--Water supply.
- 8.16.160 Sanitation--Lavatory facilities.
- 8.16.170 Sanitation--Utensils and equipment.
- 8.16.180 Sanitation--Cleaning and bactericidal treatment of equipment.
- 8.16.190 Sanitation--Storage and handling of equipment.
- 8.16.200 Sanitation--Disposal of wastes.
- 8.16.210 Sanitation--Potentially hazardous food storage.
- 8.16.220 Sanitation--Wholesomeness of food and drink.
- 8.16.230 Sanitation--Storage, display and serving of food and drink.
- 8.16.240 Sanitation--Cleanliness of employees.
- 8.16.250 Sanitation--Miscellaneous.
- 8.16.260 Itinerant restaurants.
- 8.16.270 Food service establishment--Conformance.
- 8.16.280 Reinstatement of permit.
- 8.16.290 Disease control.
- 8.16.300 Infection suspected--Procedure.
- 8.16.310 Enforcement.
- 8.16.320 State statutes adopted.
- 8.16.330 Violation--Penalty.

* For statutory provisions regarding food processing, see WSA 97 et seq.; for provisions regarding restaurants, see WSA 50 et seq.

8.16.010 Definitions. The following definitions shall apply in the interpretation and the enforcement of this chapter:

- A. "Approved" means approval by health officer.
- B. "Employee" means any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed in a room in which food or drink is prepared or served.
- C. "Health officer" means director of Eau Claire city-county health department or his authorized representative.
- D. "Itinerant restaurant" means a restaurant that operates at a fixed location for a period of time of not more than fourteen consecutive days in conjunction with a single event or celebration.
- E. "Person" means person, firm, corporation, association or organization of any nature.
- F. "Food service establishment" means restaurant, cafeteria, public or private school lunch room, tavern, soda fountain and all other eating or drinking establishments, as well as kitchens or other places in which food or drink is prepared for sale elsewhere, and any place from which prepared food or drink is sold or given away for human consumption.
- G. "Utensils" includes any kitchenware, tableware, glassware, cutlery, utensils, containers or other equipment with which food or drink comes in contact during storage, preparation or serving.
- H. "Restaurant" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any place regardless of whether consumption is on or off the premise and regardless of whether there is a charge for the food. The term does not include private homes where food is prepared or served for individual family consumption, the location of food vending machines, and supply vehicles.
- I. "Potentially hazardous food" means any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms.
- J. "Adulteration" means the condition of a food if it bears or contains any poisonous or deleterious substance in any quantity which may render it injurious to health; if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by regulation, or in excess of such tolerance if one has been established; if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for human consumption; if it has been processed, prepared, packed or held under unsanitary conditions, whereby it may have become contaminated, or whereby it may have been rendered injurious to health; it is in whole or in part the product of a diseased animal, or an animal which has died otherwise than by slaughter, or if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.
- K. "Limited food service" means food service that is limited to individually wrapped, hermetically sealed single food servings supplied to a licensed processor.
- L. "Non-limited food service" means food service which consists of meals that are served that are prepared from raw, canned, diced, packaged or frozen foods. (Ord. 4789 §15, 1987; Ord. 4111 §§2--4, 1980; prior code §4.62).

8.16.015 Restaurant review board. A. There is established a restaurant review board consisting of seven members appointed by the city manager and confirmed by the city council. Such seven members shall be representative of the food-service industry within the city and knowledgeable about general restaurant operations. Of the members first appointed, three shall serve a term of one year, two shall serve a term of two years, and two shall serve a term of three years. Thereafter, the term of office shall be three years. The first members shall take office on May 1, 1976. The initial members of the board shall hold an organizational meeting within thirty days of appointment, at which they shall designate a president, vice-president and secretary. The board shall meet thereafter as

required. A majority of the board shall constitute a quorum. The procedure of the board shall be governed by Robert's Rules of Order.

B. The restaurant review board shall:

1. Review and make recommendations to the city-county health department relating to the curriculum of the food service training seminar required as a licensing prerequisite and the adequacy of in-service training required under Section 8.16.020 A.;

2. Determine, in individual cases upon application, whether or not said individual applicant has "successfully completed an equivalent course of training" within the meaning of Section 8.16.020 A which thereby entitles such individual to a restaurant license without attending and completing a training seminar for food-service personnel. The decision of the board in such cases shall be final;

3. Make recommendation to the city council in the event of requested revocation of a restaurant license issued hereunder pursuant to Section 8.16.040, except in the case of a bona fide emergency where immediate cessation of restaurant operations is required in the interest of public health, safety or welfare. Nothing contained herein shall preclude the city council from taking action to revoke a license in the absence of a recommendation from the board;

4. Make determinations interpreting the words, terms, rules, regulations, provisions, and restrictions of this title when there is doubt as to the meaning thereof. The board may act upon application, upon written request of the city council or health officer, or on its own motion. Each application made under this chapter shall be accompanied by a fee of fifteen dollars which shall be refunded to the applicant if the applicant's interpretation prevails; otherwise it shall be retained by the city. (Ord. 3621 §1, 1976).

8.16.020 License--Application.* A. It is unlawful for any person to operate a restaurant without first obtaining a license for that purpose as herein provided. Licenses must be obtained by all persons operating or conducting a restaurant or other eating place commercially and for profit. Such license need not be obtained by churches, clubs, lodges or other organizations that serve meals or refreshments less than four times in any one-year period nor shall such license be needed for any public or private school lunchroom. The licensee shall comply with the food manager certification requirements of HFS 196 Appendix, Chapter 12, Subpart 12-201.

* That part of subsection A of this section which provides for training seminars for licenses and in-service training for restaurant employees has been suspended by Ordinance 3621 and shall not be in force and effect until January 1, 1977.

B. Application for license shall be made in writing to the city clerk on forms to be provided by him, stating the name and address of the applicant, and the address and location of the proposed restaurant, together with such other information as may be required. The clerk shall transmit such application to the health department, chief of police, building inspector, plumbing inspector and chief of the fire department and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and law applicable thereto and whether the applicant is a proper recipient of a license. Such application shall require the recommendation of said officials and no license shall be issued without the same. All applications shall be presented to the city clerk who shall be responsible for issuing the license.

C. It is unlawful for any person to operate an itinerant restaurant as defined in Section 8.16.010 without first obtaining a license for that purpose. Application for an itinerant restaurant license shall be made to the city clerk. The health department shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto and whether the applicant is a proper recipient of a license. All regulations, ordinances and laws applicable thereto must be met before a license is approved by the city-county health department. Licenses may be transferred to a premises other than that for which it was issued, provided that approval of the new premises is secured from the health department representative prior to operation of the itinerant restaurant at the new premises. Operators or licensees of itinerant restaurants whom the health department has found to be uncooperative or habitual violators of restaurant regulations may be denied a license to operate. (Ord. 6349 §2, 2002; Ord. 4515 §16, 1984; Ord. 4111 §§5, 6, 1980; Ord. 3869, 1978; Ord. 3480, 1974; prior code §4.63(a)).

8.16.030 License--Fee. A. The annual restaurant license fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

B. The itinerant restaurant license fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule. (Ord. 6363 §26, 2002; Ord. 4789 §15, 1987; Ord. 4111 §7, 1980).

8.16.040 License--Suspension and revocation. Such license may be temporarily suspended by the health department for a violation of any provision of this chapter or revoked after repeated violations. Appeal from determinations of the board made under this section shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §18, 2005; Prior code §4.63(c)).

8.16.050 License--Public display. Every restaurant or itinerant restaurant shall display at all times, in a conspicuous place, the license of the establishment. (Prior code §4.64).

8.16.060 Food, drinks examined for adulteration. Samples of food, drink and other substances may be taken and examined by the health officer as often as may be necessary for the detection of unwholesomeness or adulteration. The health officer may upon written notice to the owner or person in charge, specifying with particularity the reasons therefor, place a hold order on any food which it believes is in violation of this chapter. The health officer shall label or identify any food subject to the hold order. No food subject to a hold order shall be used, served or moved from the food service establishment. The health officer shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within ten days and that if no hearing is requested, the food shall be destroyed. If a request for hearing is received, the hearing shall be held pursuant to the board of health appeal policy.

All food service establishments serving frozen desserts shall comply with Chapter AG 70 of the Wisconsin Administrative Code. (Ord. 6349 §3, 2002; Ord. 4111 §8, 1980; Prior code §4.65).

8.16.070 Inspection. A. At least once every six months, the health officer shall inspect every restaurant located within the city. In case the health officer discovers the violation of any item of sanitation, he shall make a second inspection after the lapse of such time as he deems necessary for the defect to be remedied, and the second inspection shall be used in determining compliance with the requirements of this chapter. Any violation of the same item of sanitation deemed material by the health officer on such second inspection shall be deemed reason for immediate suspension of license.

B. One copy of the inspection report shall be posted by the health officer upon an inside wall of the food service establishment, and that inspection report shall not be defaced or removed by any person except the health officer. Another copy of the inspection report shall be filed with the records of the health department.

C. The person operating the food service establishment shall upon request of the health officer permit access to all parts of the establishment and shall permit copying any or all of the records of food purchased. (Ord. 4111 §9, 1980; prior code §4.66).

8.16.080 Sanitation requirements--Food service establishments. All food service establishments shall comply with all of the items of sanitation in Sections 8.16.090 through 8.16.260. (Ord. 4111 §10, 1980; Prior code §4.67(part)).

8.16.090 Sanitation--Floors. A. The floors of all rooms in which food or drink is stored or prepared, or in which utensils are washed shall be constructed with smooth, durable material that is easily cleanable and kept in good repair.

B. Junctures between floors and walls shall be covered and tightly sealed. Mats and duct boards shall be nonabsorbent, grease resistant, and of such size, design and construction to facilitate easy cleaning. (Ord. 4111 §11, 1980).

8.16.100 Sanitation--Walls and ceilings. The walls and ceilings of all areas where food or drink is prepared or stored or utensils are washed shall have a smooth, light colored, absorbent, easily cleanable surface. The walls and ceilings in all rooms shall be kept clean and in good repair. Exposed utility service lines and pipes and other installations and wall attachments shall be installed so as not to create unsanitary conditions and shall be easily cleanable and shall be maintained in good repair. (Ord. 4111 §12, 1980).

8.16.110 Sanitation--Doors and windows. A. Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other vermin on the premises shall be utilized. Openings to the outside shall be effectively protected against the entry of rodents and insects.

B. All doors to the outside shall be right fitting and self-closing. Screening material shall not be less than sixteen mesh to the inch and shall be maintained in good repair. (Ord. 4111 §13, 1980).

8.16.120 Sanitation--Lighting. At least twenty footcandles of light shall be provided on all food preparation surfaces, at all utensil washing areas, and in all lavatories. At least ten footcandles of light thirty inches from the floor shall be provided in all other food storage and handling areas. (Ord. 4111 §14, 1980).

8.16.130 Sanitation--Ventilation. All rooms in which food or drink is stored or prepared or served or in which utensils are washed shall have sufficient ventilation to the out-side to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. All cooking operations which produce grease vapors shall be located under an exhaust hood equipped with grease filter. (Ord. 4111 §15, 1980).

8.16.140 Sanitation--Toilet facilities. Every food service establishment shall be provided with adequate and conveniently located toilet facilities for its employees, conforming with the ordinances of the city. Toilet rooms shall not open directly into any room in which food, drink or utensils are handled or stored. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair, and well lighted and ventilated. Hand washing signs shall be posted in each toilet room used by employees. Privies or earth closets shall not be permitted or used. Compliance with State Board of Health requirements is required. (Ord. 4111 §16, 1980: Prior code §4.67(6)).

8.16.150 Sanitation--Water supply. Running water under pressure shall be easily accessible to all rooms in which food is prepared or utensils are washed, and the water supply shall be adequate, and of a safe, sanitary quality. Compliance with State Board of Health requirements is required. (Prior code §4.67(7)).

8.16.160 Sanitation--Lavatory facilities. Adequate and convenient hand-washing facilities shall be provided, including hot and cold running water, soap and approved sanitary towels and shall be separate and apart from the dish-washing and sterilization facilities. The use of a common towel is prohibited. No employee shall resume work after using the toilet room without first washing his or her hands. (Prior code §4.67(8)).

8.16.170 Sanitation--Utensils and equipment. A. Equipment shall be maintained in good state of repair and defective equipment and utensils shall be removed from the premises. Equipment and utensils shall be constructed and repaired with safe materials including finishing materials; shall be corrosion resistant and nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Food contact surfaces shall be easily cleanable, smooth and free of breaks, open seams, cracks, chips, pits and similar imperfections, and free of difficult to clean internal corners and crevices. Non-food contact equipment services shall be smooth and easily cleanable. Equipment shall be installed away from sources of contamination and in such a manner as to facilitate cleaning the equipment and adjacent areas.

B. Permanent equipment shall be rightly sealed to the floor or raised on legs at least six inches from the floor.

C. Equipment adjacent to another piece of equipment or a wall shall be separated a sufficient distance to make cleaning between and behind the equipment possible.

D. Equipment construction and installation shall conform to the standards of the National Sanitation Foundation. (Ord. 4111 §17, 1980).

8.16.180 Sanitation--Cleaning and bactericidal treatment of equipment. A. All equipment shall be kept clean and free from dust, insects and other contaminating material. All cloths used by employees for cleaning non-food contact surfaces such as counter and table tops shall be clean and used for no other purpose and be rinsed frequently in a sanitized solution. The sanitizing solution in which the cloth shall be stored between uses shall have a bactericidal activity equivalent to 100 parts per million of available chlorine as a hypochlorite.

B. All multi-use eating and drinking utensils shall be thoroughly cleaned and effectively subjected to an approved sanitizing process after each usage. All multi-use utensils and equipment used in the preparation or serving of food and drink shall be thoroughly cleaned and effectively subjected to an approved sanitizing process immediately following the day's operation or at least once every day of operation. Drying cloths shall not be used on multi-use utensils and equipment after sanitizing.

C. For manual cleaning and sanitizing, a sink with not fewer than four compartments and drainboards at each end shall be provided and used. Sink compartments shall be large enough to permit at least fifty percent immersion of the largest utensil. The four-compartment sink shall be set up and used in the following sequence:

- Compartment No. 1, utensils and equipment preflushed;
- Compartment No. 2, utensils and equipment thoroughly washed in a hot, clean detergent solution;
- Compartment No. 3, utensils and equipment rinsed free of detergent and abrasives;
- Compartment No. 4, equipment and utensils shall be sanitized by an approved method.

Sanitizing shall be accomplished by immersion in clean, hot water at a temperature of at least one hundred fifty degrees Fahrenheit for at least thirty seconds or immersion for at least two minutes in a solution of at least seventy-five degrees Fahrenheit made from an approved sanitizer at the approved strength. An approved sanitizer is one that has been listed for use at a specified concentration by the Wisconsin Division of Health Administration. All equipment shall be air-dried before storage.

D. For mechanical cleaning and sanitizing, utensils and equipment shall be pre-flushed and be washed for at least twenty seconds at one hundred thirty degrees to one hundred fifty degrees Fahrenheit and sanitized for at least ten seconds at one hundred eighty degrees Fahrenheit with a line pressure between fifteen and twenty-five pounds per square inch, or a chemical spray according to the manufacturer's specifications. Accurate pressure gauges and temperature gauges must be provided. Sanitizers shall be automatically dispensed. Machines shall be maintained clean and in good repair and in an effective working condition. All equipment and utensils shall be air-dried after sanitizing before storage.

E. Equipment designed to be cleaned in place shall be thoroughly cleaned and rinsed and then rinsed, sprayed or swabbed with an approved sanitizing solution of at least twice the strength required for immersion sanitizing. (Ord. 4111 §18, 1980).

8.16.190 Sanitation--Storage and handling of equipment. After sanitizing, utensils shall be stored inverted when practical, in a clean dry place, protected from flies, dust and other contamination, and shall be handled in such a manner as to prevent contamination as far as practicable. Spoons, knives and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar articles shall be handled without contact with inside surface or surfaces that contact the user's mouth. Single service utensils shall be purchased only in sanitary containers, shall be stored therein in a clean, dry place until use and shall be handled in a sanitary manner. Re-use of single service utensils is prohibited. (Ord. 4111 §19, 1980).

8.16.200 Sanitation--Disposal of wastes. Proper disposal shall be made of all wastes to minimize odors, prevent such wastes from attracting and harboring insects and rodents or providing a contaminate source. Containers in food preparation areas shall be covered during those periods and removed when full. Garbage and trash containers shall be durable, easily cleanable, nonabsorbent and be maintained clean and in good state of repair. Garbage and trash shall be stored outside in compliance with local ordinances. (Ord. 4111 §20, 1980).

8.16.210 Sanitation--Potentially hazardous food storage. All potentially hazardous food shall be kept at or below forty degrees Fahrenheit or at or above one hundred fifty degrees Fahrenheit at all times except during service and for short periods as practicable during preparation. (Ord. 4111 §21, 1980).

8.16.220 Sanitation--Wholesomeness of food and drink. All food and drink shall be clean, wholesome, free from spoilage and so prepared in an approved manner to be safe for human consumption. Raw fruits and vegetables shall be thoroughly washed with potable water before any use. Potentially hazardous food requiring cooking shall be heated to an internal temperature of at least one hundred fifty degrees Fahrenheit. Poultry, poultry stuffings, stuffed meats, stuffing containing meat and reheated potentially hazardous foods, shall be heated rapidly to one hundred sixty five degrees

Fahrenheit or higher throughout. Potentially hazardous food shall be heated and cooled as rapidly as practicable. The use of steam tables, holding ovens, and other similar hot holding facilities shall not be used for heating potentially hazardous foods. Potentially hazardous foods shall be thawed only in refrigerated units at a temperature of forty degrees Fahrenheit or below or as part of an uninterrupted cooking process. Milk and fluid milk products except cream shall be served in their original containers. All oysters, clams and mussels shall be from approved sources, and if shucked, shall be kept until used in containers in which they were placed at the shucking point. (Ord. 4111 §22, 1980).

8.16.230 Sanitation--Storage, display and serving of food and drink. All food and drink shall be stored, displayed, prepared and served in such a manner to be protected from dust, flies, vermin, and contamination by rodents, unnecessary handling, droplet infection, overhead leakage, wastewaters, backflow and other sources of contamination. Ice shall be dispensed only by employees with approved ice dispensing utensils or through automatic self-service dispensing equipment. Ice dispensing utensils shall be stored on a clean surface or other manner approved by the department. The reservice of leftover food is prohibited except for wrapped, unpotentially hazardous foods that are still in good condition. No live animals or fowl shall be kept or allowed in any room in which food or drink is prepared or stored. All approved means necessary for the elimination of flies, roaches, insects, rodents and other vermin shall be used. (Ord. 4111 §23, 1980).

8.16.240 Sanitation--Cleanliness of employees. A. All employees shall wear clean outer garments and shall keep their hands clean at all times while engaged in handling food, drink, utensils or equipment.

B. All employees must adhere to the following practices which constitute a part of this chapter:

1. Exercise good personal hygiene, and keep hair under control while working by means of hair nets or caps or other approved means;
2. In the dispensing of food, drink and ice and the handling of eating and drinking utensils, hands and fingers kept out of unnecessary direct contact with:
 - a. Food, drink and ice;
 - b. Surfaces of eating and drinking utensils with which food normally comes in contact;
 - c. Portions of eating and drinking utensils which are normally placed in or to a person's mouth in the process of eating or drinking;
3. Avoid contamination of all clean sanitized utensils;
4. Protect food from exposure to filth as required by state law and city ordinance;
5. Use of all available means to protect perishable foods;
6. Observe procedure methods pursuant to city ordinances and regulations of the department of health;
7. Use all available means to protect perishable foods;
8. Shall not use tobacco in any form in rooms where food or drink is prepared, or expectorate on the floor;
9. Shall not eat or drink in food preparation or storage areas;
10. Shall not work while infected with a disease in a communicable form that can be transmitted by food, or while a carrier of organisms that cause such a disease, or while afflicted with a boil or infected wound or an acute respiratory infection in a food service establishment in any capacity in which there is a likelihood that such person could contaminate food or food contact surfaces with pathogenic organisms or transmitting disease to other persons. (Ord. 4111 §24, 1980; prior code §4.67(16)).

8.16.250 Sanitation--Miscellaneous. The premises of all food service establishments shall be kept clean and free of litter and rubbish. The exterior of the building shall be maintained in a good state of repair. None of the operations connected with the food service establishment shall be conducted in any room used as living or sleeping quarters. Adequate lockers or dressing rooms shall be provided for employees' clothing and shall be kept clean. Soiled linen, caps, and aprons shall be kept in containers provided for this purpose. (Ord. 4111 §25, 1980; Prior code §4.67(17)).

8.16.260 Itinerant restaurants. All itinerant restaurants shall comply with the requirements of this chapter except as otherwise provided in this section. Only food requiring limited preparation on the premises as approved by the health officers shall be prepared and served. Condiments shall be served in individual portion containers or in a manner approved by the department. Storage of packaged food or drink in contact with water or undrained ice is prohibited. Ice that is consumed or comes in contact with food shall be made from potable water and obtained only in chip, crushed or cubed form in single use plastic bags filled and sealed at the point of manufacture and held that way until used. All articles used by consumers shall be single service and handled in a sanitary manner. In the absence of running water, hand washing facilities may be replaced with two basins; one for warm water washing and one for a sanitizing rinse. Utensil washing facilities may be replaced with three basins set up according to Section 8.16.180 of this chapter. All water shall be transported and stored in an approved sanitary manner. An effective means for heating water shall be provided. Dirt or gravel may be used as a subflooring if covered with removal platforms, wood chips, shavings or other suitable materials to control dust. Walls and ceilings may be made of canvas or other material that protects the interior from dust, insects and the weather.

The restaurant must be at least one hundred feet from any building housing animals or other sources of odors, flies or insects, insect infestations and not more than four hundred feet from approved toilet facilities. (Ord. 4111 §26, 1980).

8.16.270 Food service establishment--Conformance. No food service establishment shall be operated within the city unless it conforms with the requirements of this chapter. In case extensive alterations or repairs are required to comply with this chapter, a reasonable time, not to exceed ninety days will be allowed for full compliance; provided, that when any food service establishment fails to qualify, the health officer is authorized to suspend the permit. (Ord. 4111 §27, 1980; Prior code §4.68).

8.16.280 Reinstatement of permit. Any restaurant or itinerant restaurant, the license of which has been suspended, may at any time make application for the reinstatement thereof. Within one week after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violated provision or provisions of this chapter have been conformed with, the health officer shall make a re-inspection and thereafter as many additional reinspections as he may deem necessary to assure himself that the applicant is again complying with the requirements and, in case the findings indicate compliance, shall reinstate the license. (Ord. 4111 §28, 1980; Prior code §4.69).

8.16.290 Disease control. No person who is affected with any disease in a communicable form or is a carrier of such disease shall work in any food service establishment, and no food service establishment shall employ any such person or any person suspected of being affected with any disease in a communicable form or of being a carrier of such disease. If the food service establishment manager suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the health officer immediately. A placard containing this section shall be posted in all toilet rooms. (Ord. 4111 §29, 1980; Prior code §4.70).

8.16.300 Infection suspected--Procedure. When suspicion arises as to the possibility of transmission of infection from any food service establishment employee, the health officer is authorized to require any or all of the following measures:

- A. The immediate exclusion of the employee from all food service establishments;
- B. The immediate closing of the food service establishment concerned until no further danger of disease outbreak exists, in the opinion of the health officer;
- C. Adequate medical examinations of the employee and of his associates, with such examinations as may be indicated. (Ord. 4111 §30, 1980; Prior code §4.71).

8.16.310 Enforcement. This chapter shall be enforced by the health officer in accordance with the interpretations contained in the 1976 edition of the U.S. Public Health Service "Food Service Sanitation Manual", the provisions whereof are adopted by reference. A certified copy of said Food Service Sanitation Manual is adopted as an official record of the city, and the city clerk is directed to place the same on file and to keep the same for public inspection during business hours. (Ord. 4111 §31, 1980; Prior code §4.72).

8.16.320 State statutes adopted. The provisions of Section 50.55 of the Wisconsin Statutes for 1977 are adopted, as a portion of this chapter so far as applicable to the city and with the same force and effect as though set forth here verbatim, exclusive of any provisions thereof relating to the penalties to be imposed or the punishment for violation of said statutes and exclusive of any provision thereof defining any offense thereunder as felonies or misdemeanors. (Ord. 4111 §32, 1980; Prior code §4.73).

8.16.330 Violation--Penalty. Any person who violates any provision of this chapter shall be fined an amount not less than five dollars nor more than five hundred dollars and costs of prosecution, and in default of payment of such fine and costs of prosecution shall be imprisoned in the county jail for Eau Claire County until such fine and costs are paid but not to exceed thirty days. Each and every violation of the provisions of this chapter shall constitute a separate offense, and each and every day any provision of this chapter is violated constitutes a separate offense. (Ord. 4111 §33, 1980; Prior code §4.74).

Chapter 8.20

TREES*

Sections:

- 8.20.010 Title.**
- 8.20.020 Purpose and necessity.**
- 8.20.030 Definitions.**
- 8.20.040 City forester.**
- 8.20.050 Permits.**
- 8.20.060 Protection.**
- 8.20.070 Public nuisance abatement.**
- 8.20.090 Tree maintenance.**
- 8.20.100 Trees and shrubs prohibited.**
- 8.20.110 Violation.**

* For statutory provisions defining nuisances and granting powers of abatement and penalties therefor, see WSA 146.14.

8.20.010 Title. This chapter shall be known and may be cited as the municipal shade tree ordinance of the city. (Ord. 3773 §1(part), 1977).

8.20.020 Purpose and necessity. It is the intent of this chapter to assume control of the planting, maintenance, and removal of trees and shrubs growing on public places in the city and to define public nuisances and provide for their abatement in order to provide the following:

- A. An urban environment which is in ecological harmony with the surrounding natural and agricultural environments;
- B. An urban environment which brings the positive qualities of the natural environment into the city for the benefit of its residents;
- C. Protection of city watercourses from excessive runoff and erosion;
- D. Protection to the residents of the city from the adverse effects of air pollution, dust, noise, excessive heat and glare;
- E. The conservation of energy by minimizing the impact of winter extremes;
- F. Assurance that trees and shrubs planted in the public right-of-way or in the vision triangle, as defined herein, do not interfere with the orderly and safe passage of vehicular and pedestrian traffic;
- G. Future compensation for the loss of trees and shrubs and their beneficial aspects to public improvements;
- H. Assurance that this part of the natural environment, on which man is dependent, be maintained in such a way as to insure its quality for future generations of city residents. (Ord. 3773 §1(part), 1977).

8.20.030 Definitions. In this chapter, unless the context clearly requires otherwise, the following words and terms shall be defined as follows:

- A. "City forester" means the qualified designated city official of the city assigned to carry out the enforcement of this chapter under the supervision of the director.
- B. "Director" means the director of the city parks and recreation department.
- C. "Dutch elm disease" means a public nuisance more particularly defined as follows:
 - 1. Any living or standing elm tree or part thereof infected with the dutch elm disease fungus, *Ceratocystis ulmi* (Buisman), or which harbors any elm bark beetle, *Scolytus multistriatus* (Eichh), or *hylurgopinus rufipes* (Marsh);
 - 2. Any dead elm tree or part thereof, to include logs, branches, stumps, and/or firewood that is not:
 - a. Buried;
 - b. Consumed by burning;
 - c. Debarked; or
 - d. Completely enclosed with a 6 mil. polyethylene material from May 1 to October 1.
- D. "Park" means all public parks, playgrounds, waterfront, buffer areas, beaches, and leisure-time areas having individual names.
- E. "Planting strip" means the public place lying between the curb, or proposed curb, and the lot line.
- F. "Public nuisance" means any tree or shrub which is specifically designated as a public nuisance in this chapter or part of which is on public or private property which by reason of its condition interferes with the use of any public place, is infected with an injurious plant disease, or is infested with an injurious insect or other pest, and is detrimental to the construction of public improvements, or endangers the life, health, safety or welfare of the public or its property.
- G. "Public place" means that part of every street, highway, avenue, alley, between the lot line and curb and from property line to property line, and any other land owned or controlled by the city, including tree planting easements. (Ord. 4556 §1, 1985; Ord. 3773 §1(part), 1977).

8.20.040 City forester. A. Appointment and Qualifications. The city forester shall be appointed by the director with approval of the city manager.

B. Authority.

1. It shall be the duty of the city forester, under the supervision of the director, to enforce the provisions of this chapter. In his absence, his duties shall become the responsibility of a qualified alternate designated by the director.

2. The city forester shall have the jurisdiction, authority, control, and supervision over all trees and shrubs growing on public places, to include but not be limited to planting, removal, maintenance and protection.

3. The city forester, or his appointed representative, shall have the authority to enter upon private property, at reasonable times, to inspect trees or shrubs, or parts thereof, upon request of the property owner, upon complaint, or if he has reasonable cause to believe that a public nuisance may exist. He may take necessary samples for laboratory analysis to determine necessary or advisable tree care or removal measures to be taken at the property owner's expense, except that the cost of inspection shall be borne by the city.

4. The city forester shall have the authority to grant a permit or appropriate license under the provisions of this chapter and rules and work standards adopted hereunder. He shall supervise all work done under any permit or license issued under the provisions of this chapter and may void any permit and recommend revocation of any license if the provisions of this chapter are not complied with.

5. The city forester shall have the authority to cause a public nuisance to be abated in accordance with Section 8.20.070 of this chapter.

6. The city forester shall have the authority to formulate a master street tree plan as approved by the city council and, in connection therewith, shall do the following:

a. Make periodic inventories of trees growing on public places and maintain all records appropriate to such inventories;

b. Consider all existing and future utility and environmental factors when recommending a specific species for public places within the city;

c. With the approval of the city council, have the authority to amend and make additions to the master street tree plan at any time that circumstances make it advisable.

7. The city forester shall perform such other powers and duties as are provided by the laws, rules or regulations of the state of Wisconsin, particularly Section 27.09 of the Wisconsin Statutes.

8. The city forester shall have the authority to suspend any license for a period not to exceed five days for just cause. In addition, he may recommend to the city council that the license be suspended for a longer period of time or revoked.

9. The city forester shall make himself available to the private property owner during reasonable times to give "on site" advice concerning proper arboricultural methods and standards. In addition, he shall be available to inform and discuss these methods and standards with interest groups, the media, and educational institutions within the city.

10. The city forester may establish arboricultural specifications, with approval of the city council, setting standards for the care, maintenance and protection of trees and shrubs. (Ord. 3773 §1(part), 1977).

8.20.050 Permits. A. No person shall plant, apply pesticides, spray, prune, remove, cut above the ground, prune roots, alter or do surgery on any tree or shrub growing on a public place without first procuring a permit from the city forester.

B. Each permit shall specify an expiration date not to exceed a period of twelve months from date of issuance. The city forester shall be contacted when the work described on the permit is completed.

C. Each permit issued shall be on a standard form and shall contain a description of the work to be done, size, location, species and variety of tree involved, pesticides to be applied and dosages to be used.

D. The city forester shall issue the permit provided for in this section if, in his judgment, the proposed work is desirable and if the proposed method and workmanship thereof are of a satisfactory nature. In making this judgment, the forester shall consider the safety, health, and welfare of the public, location of public utilities, condition of public sidewalks and driveways and shall consider the nature of the soils, and the physiological species requirements.

E. Whenever a permit is required by a public utility or contractor, the city forester, with the approval of the director, may assign an inspector to supervise the work done under the provisions of this chapter.

F. Copies of the city's arboricultural specifications established under subsection B(10) of Section 8.20.040 shall be supplied with each permit. These specifications shall be amended by the city forester, with approval by the city council as research or new laws require.

G. If an abutting property owner requests a permit to perform tree work on a planting strip and intends to complete the work himself, he shall assume all responsibility for damage to the public's property and injury or death to the public that may be a result of this work. This liability shall be indicated on the permit. (Ord. 3773 §1(part), 1977).

8.20.060 Protection. Except as authorized by prior permission from the city forester, it shall be a violation of this chapter to perform or cause to be performed the following acts in any public place within the city;

A. To attach any sign, poster, handbill, electrical installation, wire, or other device or material to, around, or through a tree;

B. To permit or cause fire to burn where it may kill or injure any tree;

C. To allow any wire charged with electricity to come in contact with any tree, or to allow any toxic chemical, smoke, oil, gas, or other substance that may kill or damage any tree to come in contact with its leaves or roots;

D. To use tree spurs or climbers when working in healthy trees;

E. To remove any guard, stake, pole or other device intended for the protection or stabilization of a public tree or close or obstruct any open space around the base of a public tree designed to permit access to air, water, and fertilizer;

F. To erect, alter, repair, raze, or move any building, structure or other large object without placing suitable guards around public trees which may be injured by such operations. It shall be the responsibility of the owner thereof to repair or replace any tree injured or killed by such operations. If it is found that movement of any tree is necessary to allow for such operations, the cost of this movement shall be borne by the owner of the object;

G. To excavate any ditch, tunnel, hole, trench, or place any drive within a radius of 1.525 meters (five feet) from any tree in a public place except by those persons under written permit from the city forester or when an emergency situation exists. The city forester may require the posting of an adequate surety bond or other sufficient security by any person proposing to make any such excavation to cover the cost of replacement of any tree destroyed as the direct result of the excavation, as reasonably determined by the city forester.

Any person doing work on a tree in a public place shall be subject to the supervision and direction of the city forester. (Ord. 3773 §1(part), 1977).

8.20.070 Public nuisance abatement. A. No person shall permit any public nuisance to remain on any property owned or controlled by him, including public places.

B. Whenever the city forester finds and declares any tree or shrub a public nuisance, he shall notify the property owner or his agent in writing that the nuisance must be abated and the procedure required for the abatement. In the case of a public nuisance located in a public place, the city forester may summarily abate the nuisance without following the procedure provided for herein.

C. Procedure. Dutch elm disease infected and/or dead standing elm trees on private property.

1. Written notice shall be given to the property owner or his or her agent for abatement prior to December 31 of the year in which the elm tree was shown to be a public nuisance. Immediate removal shall be required in the event of a bona fide emergency which threatens the public safety.

2. If abatement does not occur prior to December 31, the city forester shall cause the tree or trees to be removed. The costs of this removal or other abatement may be assessed against the property in accordance with the normal and usual special assessment procedure of the city.

D. Procedure. Other public nuisances.

1. Notice shall be given to the property owner or his or her agent for abatement within a period of twenty days. Immediate removal shall be permitted in the event of a bona fide emergency which threatens the public safety.

2. If abatement of the nuisance has not occurred following the initial notice, a second notice shall be sent through certified mail, return receipt requested, requiring abatement within ten days.

3. If the nuisance has not been abated within this thirty- day period, the city forester shall cause the tree to be removed. The costs of this removal or other abatement may be assessed against the property in accordance with the normal and usual special assessment procedure of the city.

E. Appeal. Except in the case of immediate emergency situations, any person receiving an order from the city forester may appeal from all or any part thereof to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §15, 2005; Ord. 4556 §2, 1985; Ord. 3773 §1(part), 1977).

8.20.090 Tree maintenance. A. Specifications. Any person who intends to trim, remove, plant, perform tree surgery or apply pesticides to any tree on a public place shall be aware of and comply with the arboricultural specifications for public distribution at no cost. He shall suggest amendments to these specifications at any time that experience, new research or laws indicate improved methods.

B. Planting Strip. In consideration that the planting strip is the property of the public and under the management of the city, the responsibility for the trees planting, removal, and maintenance is hereby allocated to the following:

1. It shall be the responsibility of the city to remove and trim trees on the planting strip for the following reasons:

a. Trees, or parts thereof, that are considered by the city forester or city traffic engineer to be a public nuisance;

b. Trees, or parts thereof, that are found to be in conflict with city initiated public improvements and the construction of the same.

2. It shall be the responsibility of the property owner abutting the planting strip to remove or trim trees or parts thereof that interfere with sidewalk or driveway replacement, repair or installation, or with the movement of large objects, structures, or buildings, or the construction of the same.

3. The abutting property owner is encouraged to plant, and shall water, fertilize, and apply pesticides to trees on the planting strip.

4. If the city council determines that a threat exists or may in the future exist, either manmade or natural, to the future of the urban forest within the city, it may direct the city forester to initiate programs to insure planting or replacements of trees as may be required.

5. The city may undertake pesticide applications if the city council determines that an environmental emergency exists. If determined that extensive application of pesticides is necessary by the city, at least a seven-day notice thereof shall be given to the public in the official city newspaper.

No person shall apply pesticides contrary to federal or state laws.

C. Oak maintenance. The city council finds that oak wilt disease is a tree disease that has become a serious threat to the urban forest of the city. Because of the threat of such disease to the dense population of oak trees within the city, the city council establishes the tree maintenance restrictions contained in this subsection. Between April 15 and July 1, no person shall:

1. Prune any oak tree unless the pruning is required due to one or more of the following: removal or alteration of the tree due to construction activities; to alleviate a serious hazard; or to repair a wound in the tree caused by a natural or accidental casualty.

2. Prune or wound any oak tree or allow the stump to remain following the removal of a living oak tree without immediately applying to the wound or tree stump a one-time treatment of tree paint that is designed to prevent the entry of the oak wilt pathogen into the tree or tree stump.

3. Store oak wilt infected firewood that has been debarked or dried without completely covering the wood with plastic at least 6 mils in thickness. Such covering shall be maintained and not removed between April 15 and July 1. (Ord. 5864, 1998; Ord. 3773 §1(part), 1973).

8.20.100 Trees and shrubs prohibited. A. No person shall plant, grow, or maintain any tree or shrub in any yard of a corner lot within twenty feet (6.096 meters) of the corner of such lot that is higher than three feet above the level of the actual or proposed curb directly opposite. This subsection shall not apply to any tree or shrub in existence on July 31, 1977.

B. The following species are declared to be public nuisances and are prohibited in any place in the city, both public or private:

1. Acer negundo -- Boxelder (planted after 1957);
2. Populus deltoides -- Cottonwood (planted after 1957);
3. Ulmus parvifolia -- Chinese elm (planted after July 31, 1977);
4. Ulmus pumila -- Siberian elm (planted after July 31, 1977).

C. The following genera and species are declared to be public nuisances and are prohibited on the planting strip:

1. Pinus -- Pines;
2. Picea -- Spruces;
3. Taxus -- Yews (includes shrubs);
4. Larix -- Larch or tamarack;
5. Juniperus -- Red cedar (includes shrubs);
6. Thuja -- White cedar (includes shrubs);
7. Abies -- Firs;
8. Tsuga -- Hemlock;
9. Pseudotsuga -- Douglas fir;
10. Salix -- Willows;
11. Populus -- Poplars, aspen, cottonwoods, etc.;
12. Catalpa speciosa -- Northern catalpa;
13. Morus -- Mulberry;
14. Acer saccharinum -- Silver maple;
15. Gleditsia -- Thorned species of honey locust;
16. Betula -- Birches;
17. Robinia pseudo acacia -- Black locust;
18. Prunus -- Plum and cherry (except as listed in the arborcultural specifications);
19. Pyrus -- Pear;
20. Malus -- Apples (except as listed in the arborcultural specifications);
21. Elaeagnus -- Olive;
22. Sorbus -- Mountain ash;
23. Carya -- Hickory;
24. Juglans -- Walnut and butternut;
25. Quercus -- Oaks (except as listed in arborcultural specifications). (Ord. 3773 §1(part),

1977).

8.20.110 Violation. Any person who, either personally or through an agent or employee, violates any of the provisions of this chapter, shall pay a forfeiture of not less than \$50 and not more than \$500 and, in default of payment thereof, be imprisoned in the county jail not to exceed 90 days. A separate offense shall be deemed to have been committed on every day on which a violation occurs or continues. (Ord. 4556, §4, 1985; Ord. 3773 §1(part), 1977).

Chapter 8.28

WEEDS, YARDS, AND LAWNS

Sections:

- 8.28.010 Weed commissioner--Created.**
- 8.28.020 Weed commissioner--Appointed.**
- 8.28.030 Objectionable weeds.**
- 8.28.040 City action.**
- 8.28.050 Destruction--Published notice.**
- 8.28.060 Application--City-owned property.**
- 8.28.070 Special notices.**
- 8.28.080 Enforcement dates.**
- 8.28.100 Yards and lawns.**
- 8.28.105 Waivers.**
- 8.28.110 Violation and penalty.**

8.28.010 Weed commissioner--Created. The office of weed commissioner for the city is established pursuant to s. 66.97 of the Wisconsin Statutes. (Ord. 4869 §1, 1988; prior code §1.16 (part)).

8.28.020 Weed commissioner--Appointed. Such office shall be held by the superintendent of streets and that person's designee or designees. No additional compensation shall be paid to the commissioner. (Ord. 4869 §2, 1988; prior code §1.16(a)).

8.28.030 Objectionable weeds. Every owner or occupant of any premises in the city shall destroy any growth of weeds on such premises. The term objectionable weeds shall mean Canada or other thistles, leafy spurge, field bindweed (commonly called creeping Jenny), Ambrosia trifida (commonly called giant ragweed), Arubuoisia artemesifolia (commonly called common ragweed), burdock, Rhus radicans, sometimes called Radicans toxicodendron, Rhus toxicodendron, Toxicodendron radicans (commonly called poison ivy), Urtica dioica (commonly called stinging nettle), dandelions or any other noxious weed. This section shall also apply to the boulevard in front of or along any premises. (Ord. 4869 §3, 1988; Ord. 3596 (part), 1976; Prior code §1.16(B)).

8.28.040 City action. After ten days from the publishing of a notice given as stated in this chapter, the city may destroy any weeds not so destroyed and assess the expense therefor against such property as a special tax thereon. (Prior code §1.16(C)).

8.28.050 Destruction--Published notice. The city manager shall, annually, on or before May 15th, cause to be published in the official newspaper a notice, once each week for two successive weeks, to the effect that objectionable weeds are to be destroyed as provided in this chapter, and that if the same are not so destroyed, action will be taken pursuant to Section 8.28.040. (Ord. 4869 §4, 1988; prior code §1.16(D), (E)).

8.28.060 Application--City-owned property. It shall be the duty of the weed inspector to apply the provisions of this chapter to city-owned property. (Prior code §1.16(F)).

8.28.070 Special notices. Special or additional notice upon any property owner or occupant may at any time be served personally or by mail requiring the destruction of weeds in which case all of the provisions of this chapter shall likewise apply. (Prior code §1.16(G)).

8.28.080 Enforcement dates. The provisions of this chapter shall be enforced between April 1 and October 31. (Ord. 4869 §5, 1988).

8.28.100 Yards and lawns. A. In this section, "yard" means an open space at grade on the same lot as a building or structure located between the main building and the adjoining lot line and/or street line. The measurement of a yard shall be the minimum horizontal distance between the lot line and the building or structure.

B. Yards shall be provided with adequate lawn, groundcover or vegetation, hedges or bushes, equal to at least ten percent of the total lot area. All areas which are not covered by vegetation shall be treated to prevent dust or the blowing or scattering of dust particles into the air. All trees, bushes or vegetation which overhang a public entrance, street or sidewalk shall be properly trimmed to avoid obstruction of the view and movements of vehicles and pedestrians.

C. Every owner or occupant of any premises having a lawn shall cut and maintain such lawn at a height not exceeding seven inches on such premises as well as the boulevard in front of or along such premises.

1. After ten days from the publishing of a notice given as stated in this section, the city may cut the lawn on any premises or boulevard and assess the expenses therefor against such property as a special tax thereon.

2. The city manager shall, annually, on or before May 15th, cause to be published in the official newspaper a notice, once each week for two successive weeks, to the effect that lawns are required to be cut and maintained as provided in this section, and that if such lawns are not cut and maintained, action will be taken pursuant to this section. At no time thereafter shall lawns exceed seven inches in height.

3. Special or additional notice upon any property or occupant may be made and served personally or by mail prior to any action taken by the city to cut the lawn on any premises or boulevard which is not in compliance with the provisions of this chapter.

4. This subsection shall be enforced by both the city-county health department and the weed commissioner of the city. (Ord. 4869 §6, 1988; Ord. 3654 §2, 1976).

8.28.105 Waivers. The weed commissioner may waive the provisions of this chapter in whole or in part, when in the weed commissioner's opinion, an application for waiver is in compliance with a checklist for land management utilizing native grasses and other plants, created and kept on file by the weed commissioner. In addition, a waiver shall only be granted if it shall not detract from the aesthetics of an area, shall not create a nuisance, and shall not otherwise detract from the health, safety, or welfare of the neighbors and community. Denial of such a waiver may be appealed to the Director of Community Development or that person's designee, provided that said appeal is in writing and is filed no later than 48 hours following denial by the weed commissioner. (Ord. 6675, 2006; Ord. 5144, 1991; Ord. 4869 §7, 1988).

8.28.110 Violation and penalty. Any owner or occupant who violates any of the provisions of this chapter shall, upon conviction, be subject to a forfeiture of not more than \$500 for each offense. Each day during which any violation continues shall be deemed to constitute a separate offense. (Ord. 4869 §8, 1988; Ord. 4495, 1984).

Chapter 8.32

REFUSE COLLECTION AND DISPOSAL

Sections:

- 8.32.010 Definitions.**
- 8.32.020 License--Required.**
- 8.32.021 Mandatory collection of recyclables.**
- 8.32.022 License fees.**
- 8.32.025 Yard trash collection.**
- 8.32.030 Refuse hauler license--General.**
- 8.32.032 Recyclable collectors.**
- 8.32.035 Compliance with laws and regulations.**
- 8.32.040 License or permit--Revocation or suspension--Appeal.**
- 8.32.050 Liability insurance--Required.**
- 8.32.060 Industrial hauler license--Restrictions.**
- 8.32.070 Vehicle permits.**
- 8.32.080 Auxiliary vehicles--Specifications.**
- 8.32.090 Auxiliary vehicles--Permit--Operation.**
- 8.32.100 Annexed areas--Operator continuance.**
- 8.32.120 Prohibited dumping.**
- 8.32.125 Disturbance of refuse containers.**
- 8.32.150 Vehicles--Regulations.**
- 8.32.160 Refuse containers.**
- 8.32.165 Mandatory separation of yard waste.**
- 8.32.170 Collections.**
- 8.32.180 Charge for basic collection service.**
- 8.32.190 Vehicles--Street use.**
- 8.32.200 Private dump sites.**
- 8.32.210 Filling real property.**
- 8.32.220 Deposit of refuse.**
- 8.32.230 Garbage accumulation--Nuisance when.**
- 8.32.235 Improper storage of furniture.**
- 8.32.240 Manure storage.**
- 8.32.250 Burning of garbage or trash--Prohibited.**
- 8.32.260 Violation--Penalty.**

8.32.010 Definitions. In this chapter, unless the context clearly requires otherwise:

- A. "Ashes" means the solid residue of combustion of any type of fuel or combustible material.
- B. "D.N.R." means the State of Wisconsin Department of Natural Resources.
- C. "Garbage" means all putrescible animal or vegetable matter, such as waste materials from kitchens, residences, grocery stores, butcher shops, restaurants, hotels, rooming and boarding houses, and other similar deleterious substances.
- D. "Health department" means the city-county health department.
- E. "Health director" means the director of the health department.
- F. "Mixed refuse" means garbage and trash, placed and stored together.
- G. "Prepaid bag" means an approved bag which is purchased through a licensee under this chapter for a price which includes the cost of its collection.
- H. "Refuse" means all solid wastes, including recyclable materials.
- I. "Trash" means all nonputrescible solid wastes, consisting of both combustible and noncombustible wastes, such as feathers, rags, paper, boxes, glass, cans, ashes, discarded clothes or wearing apparel of any kind, or any other similar discarded object or thing, including recyclable materials.
- J. "Waste matter" or "waste material" means refuse.

K. "Yard trash" means yard waste and other refuse attending the care of lawns, shrubbery, vines and trees.

L. "Hauler" means any person licensed by the city and authorized to collect refuse within the city for deposit at any landfill.

M. "Yard waste" means grass clippings, lawn rakings and leaves.

N. "Recyclable material" or "recyclable materials" means and includes the following:

1. Aluminum containers;
2. Foam polystyrene packaging;
3. Glass containers, not including window glass, light bulbs, white glass or ceramics;
4. Magazines or other materials printed on similar paper;
5. Newspapers or other material printed on newsprint;
6. Kraft paper;
7. Corrugated cardboard;
8. Office paper;
9. Plastic containers;
10. Steel containers;
11. Waste tires;
12. Containers for carbonated or malt beverages made primarily from a combination of steel

and aluminum.

O. "Basic refuse collection service" means the refuse collection service provided under s. 8.32.170 A.

P. "Curbside refuse collection service" means the refuse collection service provided under s. 8.32.170

F. (Ord. 5928 §1, 1999; Ord. 5571 §1, 1996; Ord. 5188 §§2, 3, 1991; Ord. 4838 §1, 1988; Ord. 3866 §2 (part), 1978).

8.32.020 License--Required. Except as otherwise provided in this section, no person shall engage in the business of collecting refuse or recyclable materials in the city without first obtaining from the city clerk a license to do so. Applications for licenses shall be presented on forms prepared by the city clerk. Prior to final action on such application the same shall be referred to the health department for consideration and report thereon to the city clerk. License applications for the collection of recyclable materials where the applicant proposes to store or dispose of the recyclable materials within the city shall be referred to the department of community development for consideration and report to the city clerk. The city clerk shall provide the person obtaining a license with a printed or written license containing a number identical to the number of the license on record in the office of the city clerk. (Ord. 5235 §1, 1992; Ord. 5203 §1, 1992; Ord. 5188 §4, 1991; Ord. 4515 §17, 1984; Ord. 4038 §4, 1979; Ord. 3866 §2(part), 1978).

8.32.021 Mandatory collection of recyclables. Each licensee holding a license as a refuse hauler under this chapter shall collect and dispose of recyclables placed for collection by any customer of the licensee. Such collection and disposal shall be performed at least weekly beginning April 15, 1999. No fee or charge shall be imposed by a refuse hauler for the collection and disposal of recyclables, except that such a fee or charge can be imposed to the extent authorized by Eau Claire County acting as a responsible unit for recycling purposes pursuant to ch. 287, Wisconsin Statutes. The amount of such fee or charge shall not exceed the rate of special charge for recycling purposes set by Eau Claire County for entities located outside the city of Eau Claire. In this section "recyclables" shall mean those materials which owners or occupants of single-family and 2- to 4-unit residences are required to separate from other refuse pursuant to s. 12.73.100 A. of the Eau Claire County Code. A sufficient number of containers shall be provided by the hauler to each customer to accommodate the removal of recyclables. (Ord. 5996, 1999; Ord. 5919 §1, 1999; Ord. 5899, 1998; Ord. 5836 §1, 1998; Ord. 5458, §1, 1994).

8.32.022 License fees. The annual license fee for licenses required under s. 8.32.020 shall be as stated in the City of Eau Claire Fees and Licenses Schedule. (Ord. 6363 §27, 2002; Ord. 6234 §1, 2001; Ord. 5235 §2, 1992).

8.32.025 Yard Trash Collection. A. No license shall be required of a person who engages exclusively in the business of collecting and disposing of yard trash. The provisions of sections 8.32.070, 8.32.080 and 8.32.090, including permit requirements, shall apply to each vehicle and auxiliary vehicle utilized by persons engaging in such business. The provisions of sections 8.32.120, 8.32.150, 8.32.160, 8.32.165, 8.32.170, 8.32.200, 8.32.210, 8.32.220 and 8.32.230, insofar as applicable to the collection and disposal of yard trash, shall apply to all persons engaging in such business.

B. No person subject to this section shall engage in the burning of yard trash within the city without obtaining the prior approval of the Health Director. The Health Director may deny any application for such approval if it is found that such burning is reasonably likely to cause excessive heat, smoke, or discharge of particulates, or would result in a public nuisance. The Health Director may place requirements upon any approval granted hereunder which are designed to avoid such conditions. (Ord. 5127, 1991).

8.32.030 Refuse hauler license--General. A. 1. The number of refuse hauler licenses that may be granted under this chapter shall not exceed 10. Such license shall be an annual license, in effect from July 1st to June 30th of the following year.

2. No person, firm, corporation or partnership shall hold more than one refuse hauler license. This shall be deemed to prohibit two or more related persons, firms, corporations or partnerships from each holding a license. Under this section, "related", when applied to persons, shall mean related to each other by blood, marriage or adoption. Under this section, "related", when applied to firms, corporations or partnerships, shall mean having the same ownership, being in the position of principal and subordinate or parent and subsidiary, or where one firm, corporation or partnership has a controlling interest in another by virtue of control of management, stock ownership, capital interest or profits interest.

3. If a refuse hauler licensee acquires, merges or combines with or otherwise obtains the refuse hauling license of another licensee, the said license shall be deemed to revert to the city and may be issued to an eligible applicant.

4. By virtue of being issued a refuse hauling license or filing an application, a licensee or applicant agrees to provide to the city, on request, all agreements, records, reports or other documents which may have a bearing on making determinations under this subsection. A failure or refusal to supply all such documents shall subject a licensee to revocation of the license or an applicant to denial of a license. If requested in writing by the licensee or applicant, some or all information contained in such agreements, records, reports or other documents shall be maintained as confidential, to the extent permitted by law, provided that such information may be divulged to the city council and such other officers or employees of the city who have a need to know the information.

5. Any licensee who holds more than one license as of the effective date of this ordinance shall by June 30, 1988 transfer all licenses in excess of one, pursuant to the provisions of s. 8.32.030 B. In the event no such transfer occurs within said time period, any such license in excess of one shall be deemed to revert to the city and may be issued to an eligible applicant.

B. Refuse hauling licenses may be transferred at any time upon application to the city clerk, payment of a transfer fee as stated in the City of Eau Claire Fees and Licenses Schedule, and approval by the city council. The city clerk shall thereupon issue a new license to the transferee for the unexpired portion of the license, subject however, to all of the terms and conditions of this chapter.

C. All refuse haulers licensed under this chapter are deemed to have consented to the regulations and conditions contained in this chapter. (Ord. 6363 §27, 2002; Ord. 5919 §2, 1999; Ord. 5235 §3, 1992; Ord. 5196 §5, 1991; Ord. 4851, 1988; Ord. 4790 §§1, 2, 1987; Ord. 4427, 1984; Ord. 3866 §2(part), 1978).

8.32.032 Recyclable collectors. A. Persons holding a license for the collection of recyclable materials shall be subject to and shall comply with the following provisions of this chapter, which shall be deemed to be applicable to the collection and disposal of recyclable materials: 8.32.050, 8.32.070, 8.32.080, 8.32.090, 8.32.120, 8.32.150, 8.32.160 H., 8.32.170 B., 8.32.200, 8.32.220 and 8.32.230.

B. The business location and disposal facility of persons holding a license for the collection of recyclable materials shall be in conformance with the ordinances and regulations of the city, including zoning regulations. The disposal of recyclable materials at a disposal facility shall comply with all city ordinances and regulations and state laws and regulations. (Ord. 5235 §4, 1992).

8.32.035 Compliance with laws and regulations. It is a condition of all licenses granted under this chapter that the license holder shall comply with the ordinances of the city, the rules and regulations of the board of health, and the orders of the health department relating to the collection, hauling, storage and disposal of refuse and recyclable materials. Non-compliance with any such ordinance, rule, regulation or order shall constitute a basis for refusal to issue, or for the revocation or suspension of any license. (Ord. 5836 §2, 1998; Ord. 5235 §5, 1992).

8.32.040 License or permit--Revocation or suspension--Appeal. A. Any license or permit issued hereunder may be revoked or suspended by the city clerk upon administrative determination that the licensee or permit holder has failed or refused to comply with the provisions of this chapter, or for violation of the rules, regulations or laws related to refuse collection or disposal. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. No person whose license or permit has been revoked shall again be issued such license or permit under this chapter within one year from the date of revocation. (Ord. 6572 §16, 2005; Ord. 5235 §6, 1992; Ord. 3866 §2(part), 1978).

8.32.050 Liability insurance--Required. No license shall be issued until the applicant has furnished satisfactory proof that he has in full force and effect a public liability insurance policy in a company authorized to do business in the state of Wisconsin, for each vehicle to be used, in the amounts of one hundred thousand dollars for any one person injured or killed and a total sum of three hundred thousand dollars for more than one person injured or killed, and fifty thousand dollars for the injury or destruction of any property of any person other than the licensee. (Ord. 3866 §2 (part), 1978).

8.32.060 Industrial hauler license--Restrictions. A. Without regard to the limitation contained in Section 8.32.030, the city council may issue such number of licenses as the city council deems necessary for collections of refuse to be made only from specific industries. Such license shall be called an "industrial hauler license". Upon application made for such a license the city council shall hold a first reading on the granting of the license. All holders of licenses for garbage collection shall be notified of such first reading by mail addressed to the address of such holder as the same appears on the records of the city clerk. The council shall act upon such application at a subsequent meeting.

B. Such license shall be an annual license, expiring on June 30th of each year. The license fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule. Such license shall not be transferable.

C. The industrial hauler license shall specify the limit of vehicles which are permitted to be used by the licensee. The change in the number or type of permitted vehicles may be authorized, upon application, by the city council without following the procedure prescribed in subsection A.

D. No vehicle so authorized shall be used to collect or haul refuse from any place other than the specific industrial establishment or establishments which are specified in the license. (Ord. 6363 §27, 2002; Ord. 6234 §2, 2001; Ord. 3866 §2(part), 1978).

8.32.070 Vehicle permits. A. Each vehicle used by a licensee for the collecting of refuse or recyclable materials shall first be issued a permit as approved by the city council. The permit term shall coincide with that of the license under which the vehicle is operated. Prior to issuance of any such permit, the vehicle shall first be inspected and approved by the health director or the duly authorized representative of the director.

B. Application for such permit shall be on a form prepared by the city clerk. The annual permit fee for refuse hauling vehicles shall be as stated in the City of Eau Claire Fees and Licenses Schedule. The annual permit fee for vehicles hauling recyclable materials shall be as stated in the City of Eau Claire Fees and Licenses Schedule. The permit shall not be transferable. The city clerk shall provide the person obtaining a permit with a printed or written permit containing a number identical to the number of the permit on record in the office of the city clerk.

C. Vehicles used by licensed operators shall have painted or otherwise securely affixed on both sides of the vehicle used, the name and address of the owner and the city garbage hauler license and vehicle permit number, in letters and numerals not less than three inches in height, in contrasting colors and ordinarily visible at a distance of fifty feet. If such vehicle breaks down or otherwise becomes mechanically immobilized, the temporary use of a substitute vehicle not having a permit may be made only upon permit issued by the city clerk upon approval of the vehicle in writing by the health director or his duly authorized representative. Such temporary permits shall be kept in the substitute vehicle and be readily available upon request of the health director or his duly authorized representative. The temporary permit of any vehicle shall become void when the vehicle for which it was substituted is again put into operation.

D. The health director or duly authorized representative of the director may temporarily suspend any permit issued under this chapter for a violation of any provision of the chapter. Appeal from the afore stated determination shall be made to the administrative review board under the procedures specified in ch. 1.06. Appeal shall stay the contested administrative determination pending decision by the board. (Ord. 6572 §16, 2005; Ord. 6363 §27, 2002; Ord. 6234 §3, 2001; Ord. 5235 §7, 1992; Ord. 5188 §5, 1991; Ord. 3995, 1979; Ord. 3866 §2 (part), 1978).

8.32.080 Auxiliary vehicles--Specifications. A. A licensee shall be allowed to operate one or more auxiliary vehicles in conjunction with each primary vehicle to supplement the collection of trash and garbage from dwellings. An auxiliary vehicle shall be a small compact vehicle designed for the specific purpose of trash and garbage hauling.

B. Auxiliary vehicles shall be within the following dimensions and requirements:

1. Wheelbase not less than six feet and not more than twelve feet;
2. Width not less than four feet and not more than seven feet;
3. Overall length not less than nine feet and not more than nineteen feet;
4. Capacity not less than one yard and not more than five yards;
5. Construction, same as primary vehicle as specified in Section 8.32.060;
6. Mechanically operated dumping system for dumping directly into the primary vehicle;
7. For reasons of safety and traffic requirements, auxiliary vehicles shall be equipped as

provided by Wisconsin Statutes. (Ord. 3866 §2(part), 1978).

8.32.090 Auxiliary vehicles--Permit--Operation. All regulations pertaining to the collection and disposal of trash and garbage by licensed operators in the city shall also apply to the use of auxiliary vehicles except as specified as follows:

A. Application for an auxiliary vehicle permit shall be made to the city clerk. The city clerk shall issue such permit upon presentation of the application, the permit fee, and the certificate of the board of health approving the vehicle.

The permit fee shall be as stated in the City of Eau Claire Fees and Licenses Schedule for each auxiliary vehicle in service. The permit shall expire on June 30th of each year.

B. Identification requirement shall be the same as for each primary vehicle except that letters and numerals may be reduced in size to not less than one and one-half inches in height and visible for a distance of at least twenty-five feet. However, the city garbage truck permit number of the primary vehicle shall also be affixed to the auxiliary vehicle and shall be not less than three inches in height, followed by the letter "A" to designate the vehicle as an auxiliary vehicle and shall be placed in a conspicuous location.

C. All collections made by the auxiliary vehicle are to be deposited directly into the primary vehicle. At no time shall an operator use an auxiliary vehicle to make hauls to any disposal site, public or private. No collection of trash and garbage shall be left in an auxiliary vehicle overnight, but vehicle shall be emptied and cleaned as required by Section 8.32.110. (Ord. 6363 §27, 2002; Ord. 3866 §2(part), 1978).

8.32.100 Annexed areas--Operator continuance. Any person engaged in the business of collecting garbage in an area at the time it is annexed to the city, and for a period of not less than one year continuously and immediately prior thereto, may continue to collect garbage in such area after annexation as well as in any other area subsequently annexed from the same township, provided that such person applies for and obtains

a license for such purpose from the city council. Such person shall make application therefor within one hundred twenty days after the effective date of the annexation ordinance. However, the city council may waive such one hundred twenty-day time limit in any case where it finds that extenuating and mitigating circumstances exist which reasonably justify such waiver, where it finds that the existence of such time limit results in undue hardship upon the applicant due to any such annexation, and where it finds that the spirit of this chapter will be observed. The cost of such license shall be as stated in the City of Eau Claire Fees and Licenses Schedule, ending on June 30th of each year, and may be prorated. Such licensee must in all respects meet the standards and comply with all of the conditions otherwise applicable to city licensees as provided in this chapter. The ordinance codified in this chapter shall apply with respect to any and all annexations which have taken place or which will occur after March 25, 1969. (Ord. 6363 §27, 2002; Ord. 3866 §2(part), 1978).

8.32.120 Prohibited dumping. A. It is unlawful for any person to dump or otherwise dispose of any refuse upon any street, alley, highway, streams or water within the city, or at any place except as provided in this chapter.

B. It is also unlawful for any person to dump or otherwise dispose of any refuse upon the property of another without the expressed permission of that property owner. (Ord. 4674, 1986; Ord. 3866 §2(part), 1978).

8.32.125 Disturbance of refuse containers. No person shall open or disturb any refuse bag or container in a manner that would cause or contribute to litter. (Ord. 6133 §1, 2001).

8.32.150 Vehicles--Regulations. Trucks, wagons or other vehicles used in collecting or hauling garbage shall be of such construction that there will be no dripping, dropping or scattering of material therefrom along streets, alleys or highways of the city, and each wagon, truck or vehicle shall have a cover approved by the health department and the same shall be used and employed at all times in conformity with the regulations of the board of health relating thereto. All trucks, wagons or other vehicles used in collecting or hauling trash or recyclable materials shall be constructed and operated so as not to result in the dropping, blowing or scattering of material and so as not to cause a public nuisance. Trees, branches, shrubs or other similar stable material may be tied or otherwise secured in a manner approved by the director of public works, or a representative thereof, in lieu of providing such cover, if the dropping or scattering of such material is thereby prevented. All disposal vehicle collection openings shall be kept closed at all times, except when loading or unloading. (Ord. 5203 §2, 1992; Ord. 5188 §8, 1991; Ord. 3866 §2(part), 1978).

8.32.160 Garbage and trash receptacles. A. It is unlawful for the agent, owner, tenant or occupant of any premises to have, maintain, or keep any garbage or mixed refuse thereon except in containers as prescribed in this chapter. Such containers shall be composed of rigid, durable materials, have tight fitting covers, be fitted with handles, and be capable of preventing leakage or the entrance of water, insects and animals. Garbage or mixed refuse must be stored within such container with the lid closed. Containers used for basic refuse collection service under section 8.32.170 A. shall not exceed 35 gallons in capacity. Containers having a capacity larger than 35 gallons may be used by a hauler for other than basic refuse collection service under section 8.32.170 A., provided the size and placement of such containers and the charge for such service shall be consistent with all rules, regulations and grant requirements imposed by the state of Wisconsin upon the city or Eau Claire county.

1. Garbage or mixed refuse shall be placed in plastic bags or otherwise adequately wrapped before being placed in the garbage containers. Prepaid plastic bags may be used as liners inside approved garbage containers.

2. The total capacity of all provided garbage and refuse containers and all bulk storage containers shall be sufficient to meet the needs of the occupants of the dwelling unit to which they relate.

3. It shall be unlawful to place any garbage or mixed refuse into a container not meeting the standards of this section. All containers shall be easily filled, emptied and cleaned, and shall be maintained at all times in a clean and sanitary condition.

4. Effective July 1, 1998 all refuse containers in residential areas must be stored behind the setback of a dwelling and shall not be stored on front porches where they are clearly visible from any street except as provided in ss. 8.32.170 B. and F.

5. Effective July 1, 1999 all refuse containers for dwellings containing more than 2 dwelling units shall be stored in a location not visible from any street, except as provided in ss. 8.32.170 B. and F.

6. Effective October 1, 1998 all refuse containers shall have a weather-resistant label affixed in a location visible to customers which states the regulations for refuse storage and collection. The label shall be provided by the hauler owning the container. The label and the information on the label shall be in conformance with guidelines established by the health department.

B. Trash may be put in boxes, barrels or other containers which are easy to handle and load by one person onto a collection vehicle. Recyclable materials shall be placed for collection in receptacles which are adequate to prevent the blowing or scattering of materials therefrom.

D. Yard trash shall be either placed in trash containers or plastic bags which are easy to handle by one person, or securely tied in bundles not greater than four feet in length, thirty inches in diameter, or seventy-five pounds in weight.

E. Bulk storage containers which are used for the storage of garbage or mixed refuse for dwellings or for commercial operations, shall be watertight, constructed of metal or other durable material impervious to rodents, capable of being serviced without creating unsanitary conditions, and equipped with doors or covers that are tight-fitting. Such containers, as well as the area immediately surrounding them, shall be maintained in a clean sanitary condition by the owner of such container.

F. Ashes shall be adequately cooled and dried before being placed out for collection.

G. Prepaid bags, which have a minimum thickness of two mils and which meet the minimum criteria of the standards of the National Sanitation Foundation, may be used as provided in this chapter.

H. Recyclable materials shall be separated, processed and placed for collection in such a manner that complies with Eau Claire County regulations. (Ord. 5836 §3, 1998; Ord. 5188 §§9, 10, 1991; Ord. 4078 §1, 1980; Ord. 3967 §1, 1979; Ord. 3887 §1, 1978; Ord. 3866 §2(part), 1978).

8.32.165 Mandatory separation of yard waste. A. Purpose. The city of Eau Claire recognizes that yard waste comprises a significant amount of the total volume of refuse deposited at any landfill. Yard wastes needlessly take up a large volume of space at the landfill which could be utilized for the disposal of other materials. The city further acknowledges that there is a need to preserve landfill space. The city finds that the public health and welfare is served by minimizing, to the extent possible, the materials which are placed in any landfill. The intent of this ordinance is to further the goal of having no yard waste deposited in any landfill, thus conserving valuable landfill space.

B. Separation. All persons whose refuse is disposed of at any landfill shall separate yard waste from all other refuse.

C. No collection or deposit. Except when permitted by county ordinance, no person shall place for collection or deposit in any landfill any yard waste, and no hauler shall collect any yard waste for deposit at any landfill.

D. Refusal of service. Any yard waste placed for collection not in accordance with the provisions of this section may be refused by the hauler.

E. Penalty.

1. Any person who violates, after September 14, 1988, a provision of this section shall, upon conviction, forfeit:

- a. Not less than \$10 nor more than \$25 for the first conviction within one year;
- b. Upon the second conviction within one year, not less than \$25 nor more than \$50;
- c. Upon the third conviction within one year, not less than \$50 nor more than \$100;
- d. Upon the fourth and subsequent convictions within one year, not less than \$100

nor more than \$500.

2. Any hauler who violates this section may be subject to suspension or revocation of his or her refuse collection license, in addition to the imposition of a penalty under this ordinance. (Ord. 5928 §2, 1999; Ord. 5836 §3, 1998; Ord. 4838 §2, 1988).

8.32.170 Collections. A. Refuse collection shall be provided by each licensee at least once each week from every dwelling unit. Each licensee shall offer, and shall provide to any customer upon request, basic refuse collection service consisting of collection once weekly from either one container or two containers, at the option of the customer. A licensee can refuse to perform any collection which is not in compliance with state law or city or county ordinance. In this subsection, "container" or "containers" refers to a container or containers each of which complies with the capacity limit of 35 gallons as provided in Section 8.32.160. Refuse collection shall occur between the hours of five a.m. and five-thirty p.m., except as provided in subsection E of this section. The limitation as to days of collection within the areas designated in this subsection shall not apply to collections made occasionally on days other than those designated where adherence to such limitation is impractical or unreasonable. The purpose of these occasional collections shall not be inconsistent with the general purpose of this subsection to provide uniform days of collection to the greatest practical degree. When the regular collection day falls on one of the following holidays, such regular collections on the holiday may be omitted and collection shall be made on another day during the week of such holiday, and the licensee shall inform each customer of the make-up collection day. The holidays herein referred to are New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving Day and Christmas.

B. Garbage and trash containers shall be readily accessible to the collector on the day of collection. Except as provided under subsection F. of this section, no container, bag or receptacle containing garbage, trash or mixed refuse shall be placed for collection in the public right-of-way, provided that yard trash or recyclable materials may be placed at curbside or immediately adjacent to the traveled portion of the right-of-way for collection on collection day. Recyclable materials shall be placed for collection for no longer than 24 hours preceding collection and in such a manner that does not create a public nuisance and recycling containers shall be removed on the day of collection. Any recycling container left on city property in violation of this subsection may be removed by the city or its designee and returned to the hauler. The city may charge the hauler a fee as stated in the City of Eau Claire Fees and Licenses Schedule for each container returned in this manner and the hauler will reimburse the city within 30 days of billing by the city for these charges. Except for special assistance to the handicapped, and except for yard trash and recyclable materials as provided herein, all collections shall be made from a location outside of a building, an enclosed porch, garage or similar enclosure, but as near thereto as is reasonably practicable.

C. No garbage, mixed refuse or dead animals shall be kept more than seven days on any premises except at an approved and properly licensed sanitary landfill site.

D. The following types of services may be provided by a licensee in addition to the once-weekly service provided pursuant to subsection A of this section at a rate agreed to by a licensee and customer:

1. Collection utilizing a prepaid bag. Such bag shall be placed for collection at a location which is visible to the operator of a garbage collection vehicle from the street or alley on the route of the vehicle. Such bags shall be stored in an approved plastic or metal container, as specified in subsection A of section 8.32.160 and may be placed, securely closed, outside of such container for collection a reasonable period of time in advance of collection, but not more than twenty-four hours prior to collection.

2. Special collection service, the terms of which may include collection at more frequent intervals than once a week, the number of containers placed for collection, collection from inside a building, porch, garage or other enclosure, or any other conditions of collection which are not contrary to the provisions of this chapter.

E. The hours and days of collection stated in this chapter may be altered or extended for a reasonable time by the health director or that person's designee under special circumstances which in the opinion of that person are likely to affect the health, safety or welfare of persons or the community. Extensions may be city-wide or restricted to designated areas.

F. Curbside refuse collection service is permitted from a location other than as provided under subsection B., including a location adjacent to the public right of way or adjacent to the traveled portion of such right of way, under the conditions contained in this section. No containers shall be placed on, and no collection shall occur from, a public sidewalk. A licensed hauler violating any of such conditions, except 3., shall be subject to the penalties provided in section 8.32.260. Such conditions are as follows:

1. Such collection occurs on the days designated for the area listed:
 - a. Monday and Tuesday -- the area located south of Clairemont Avenue and east of the Chippewa River.
 - b. Tuesday and Wednesday -- the area located north of Clairemont Avenue, east of the Chippewa River and south of the Eau Claire River.
 - c. Wednesday and Thursday -- the area located west of the Chippewa River.
 - d. Thursday and Friday -- the area located east of the Chippewa River and north of the Eau Claire River.
2. All collections under this subsection shall be made from a container having a composition as provided under subsection A. All containers shall be provided to the customer without charge by the customer's hauler and the container shall contain the name of the hauler in a manner which is readily identifiable from the right of way adjacent to the location of collection. The health director or that person's designee may allow plastic bags and other refuse items to be placed curbside for collection under special circumstances which in the opinion of that person are likely to affect the health, safety or welfare of persons or the community. However, collection of these items shall conform to schedules set by the health department and the bags shall comply with specifications determined by the health department.
3. Containers shall be placed as permitted in this subsection no earlier than 5:00 p.m. on the day prior to collection and shall be removed on the day of collection. Any container left on city property in violation of this subsection may be removed by the city or its designee and returned to the hauler. The city may charge the hauler a fee as stated in the City of Eau Claire Fees and Licenses Schedule for each container returned in this manner and the hauler will reimburse the city within 30 days of billing by the city for these charges.
4. Collections permitted under this subsection shall comply with the provisions regulating frequency, times of collection and holiday collection as contained in section 8.32.170 A; provided, that when a holiday falls on a week day, collection during such week shall be permitted on the day next following the days designated under subsection F. 1. a., b., c., or d.
5. In providing curbside refuse collection service, in order to promote the effective re-use and recycling of materials, licensed haulers shall comply with the provisions of this paragraph. A licensed hauler, in providing curbside refuse collection service, shall offer collection from a container having a capacity of 45 gallons or less. If the licensed hauler also offers collection from containers larger than 45 gallons, the charge for such larger containers shall be volume-based. In this paragraph, "volume-based" means that the charge for refuse collection is increased as the container size increases.
6. Curbside refuse collection shall be permitted on weekdays during the last full week in April and the third full week in October without compliance with paragraphs 1 through 7 of this subsection, provided no charge is imposed for such collection and such collection is made in conjunction with a city-wide collection of refuse by a licensed hauler.
7. Refuse collection charges for service under this subsection may include the costs of weekly recycling service, notwithstanding s. 8.32.021.
 - G. Licensed haulers providing collection services shall:
 1. Inform all customers of their refuse collection responsibilities; and
 2. Monitor the condition of their containers provided to customers and replace them when they do not meet the standards set forth in this chapter.
 - H. Residential landlords shall notify tenants in writing at the beginning of a lease or rental period of the tenant's responsibilities under this chapter. The information provided shall be in compliance with guidelines established by the health department. (Ord. 6363 §27, 2002; Ord. 6133 §2, 2001; Ord. 5919 §3, 1999; Ord. 5836 §4, 1998; Ord. 5709, 1997; Ord. 5651, 1996; Ord. 5598, 1996; Ord. 5578, 1996; Ord. 5571 §§3, 4, 1996; Ord. 5196 §12, 1991; Ord. 5188 §11, 1991; Ord. 4722, 1987; Ord. 3896 §1, 1978; Ord. 3866 §2(part), 1978).

8.32.180 Charge for basic collection service. A. The charge for mandatory once-weekly service pursuant to subsection A of Section 8.32.170, by licensed collectors, shall not exceed the monthly charge of \$7.40 for one container, once-a-week pick-up, and \$10.84 for two containers, once-a-week pick-up for each dwelling unit. Landfill tipping fees may be passed on directly to the customers by the licensed hauler. The determination of such cost shall be made by the finance director, based upon the tipping fee per ton, divided by 2000 lbs., times 173 lbs. per month per can (based on average can weight of 40 lbs. per can per week). At such a time that notification of a tipping fee increase or decrease is submitted to the city, the finance director is authorized to submit the allowable pass-through tipping fee amount to the licensed haulers based on the above formula. The licensed hauler may require customers to make payment for such service no more than two months in advance of the receipt of the service paid for.

B. The rate authorized to be charged by a licensed hauler for one and two can once-weekly service shall be increased or decreased annually on April 1, 1995 and each April 1 thereafter, to an amount obtained by multiplying the existing authorized rate by the percentage increase or decrease in the national consumer price index of the United States Department of Labor (1967 base, not seasonally adjusted) for all urban consumers (all items index) from January to December of each year commencing with the period January, 1994 to December, 1994; or 5 percent, whichever is lower. The determination of the maximum allowable rates for one and two can regulated service shall be computed annually by the finance director in accordance with the above criteria. Notice of such determination shall be sent to all licensed haulers within the city of Eau Claire.* (Ord. 5928 §3, 1999; Ord. 5571 §5, 1996; Ord. 5458 §2, 1994; Ord. 4790 §§3, 4, 1987; Ord. 4711, 1987; Ord. 4703, 1987; Ord. 4527, 1984; Ord. 4368, 1983; Ord. 4180 §1, 1981; Ord. 4156, 1981; Ord. 4078 §2, 1980; Ord. 3973, 1979; Ord. 3967 §2, 1979; Ord. 3948, 1979; Ord. 3887 §2, 1978; Ord. 3866 §2(part), 1978).

* Editors Note. Ordinance 5458 provided as follows: "Refuse haulers shall provide required recycling containers at no additional cost to customers."

8.32.190 Vehicles--Street use. A. Trucks, wagons or other vehicles containing garbage shall be kept off the streets of the city except for the purpose of collecting and transporting the garbage in the most direct route to the municipal landfill site and shall not be parked on any street, alley or public place except for the reasonable time required in the collection of refuse.

B. Except as provided in subsection A of this section, no wagon, truck or other vehicle used in collecting or hauling garbage or other waste material shall be parked in any alley, street or public place within the city or, unenclosed, in any place within the city within two hundred feet of any dwelling in any residential zone unless such wagon, truck or other vehicle has first been thoroughly cleaned and steamed. (Ord. 3866 §2(part), 1978).

8.32.200 Private dump sites. No person shall own, operate or maintain a dumping site or landfill within the city except where the same has been approved by the D.N.R. or other governmental agency having jurisdiction thereof, where approval is required, and such site shall be operated and maintained in a manner which does not create a nuisance. (Ord. 3866 §2(part), 1978).

8.32.210 Filling real property. Any person owning or managing real property within the limits of the city desiring to collect waste material for the purpose of filling shall first obtain permission from the health director and shall keep and maintain the fill area in a clean, safe and nuisance-free condition. All such filling shall comply with all laws, rules and regulations of the D.N.R. or other governmental agency having jurisdiction thereof. (Ord. 3866 §2(part), 1978).

8.32.220 Deposit of refuse. No person owning, occupying or managing any real property within the limits of the city shall cause or permit any refuse other than that produced on the premises to be placed for collection thereon without a permit from the health director and only in accordance with the terms and conditions of such permit. No person shall use any public receptacle for the disposal of refuse as a substitute for private collection. (Ord. 3866 §2(part), 1978).

8.32.230 Refuse accumulation--Nuisance when. The accumulation or deposit of refuse, trash or putrescible animal or vegetable matter, wood products, branches, metal objects, tires and other rubber products, and other similar articles or objects in or upon any lot or land or any public or private place within the city which causes the air or environment to become noxious or offensive or to be in such a condition as to promote the breeding of flies, mosquitoes or other insects, or to provide a habitat or breeding place for rodents or other animals, or which otherwise becomes injurious to the public health, is prohibited and declared to constitute a nuisance. (Ord. 5836 §5, 1998; Ord. 4494, 1984; Ord. 3866 §2(part), 1978).

8.32.235 Improper storage of furniture. No person shall place and allow to remain exposed to the elements, whether outdoors or within an unenclosed porch or similar area, any chair, sofa, bed, table or other related or similar furniture, which is not designed and intended for outdoor use and which is thereby readily susceptible to deterioration or which thereby provides a harborage for rodents. This section shall not apply to furniture which is unused and placed outside as refuse for collection and disposal. (Ord. 4843, 1988).

8.32.240 Manure storage. All manure from any animals shall be kept only in fly-proof and impervious containers which are kept and maintained in good repair. (Ord. 3866 §2(part), 1978).

8.32.250 Burning of garbage or trash--Prohibited. No person shall burn any garbage or trash in any receptacle other than an incinerator which is approved by the health department based on its durability and suitability for use in accordance with applicable governmental regulations and standards. (Ord. 3866 §2(part), 1978).

8.32.260 Violation--Penalty. Any person who violates any of the provisions of this chapter, upon conviction thereof, shall forfeit not less than \$20 nor more than \$500 for each offense, and in default of payment thereof shall be imprisoned in the county jail for not to exceed thirty days unless such forfeiture and costs are sooner paid. Every day of violation shall constitute a separate offense. (Ord. 4731, 1987; Ord. 3866 §2(part), 1978).

Chapter 8.36

INOPERATIVE MOTOR VEHICLES

Sections:

- 8.36.005 Purpose and intent.**
- 8.36.010 Definitions.**
- 8.36.020 Storage prohibited.**
- 8.36.030 Storage--Permitted when.**
- 8.36.040 Notice of removal.**
- 8.36.050 Violation--Penalties.**

8.36.005 Purpose and intent. The purpose and intent of this chapter is to eliminate the inappropriate and unnecessary keeping and storage of inoperative motor vehicles and motor vehicle accessories on private property. The city council finds that such keeping and storage is unsightly, unhealthy and unsafe, and contrary to the health, safety and welfare of the residents of the City of Eau Claire. (Ord. 5669 §1, 1996).

8.36.010 Definitions. For the purpose of this chapter the following definitions shall be applicable:
A. "Inoperative motor vehicle" means any motor vehicle which satisfies one or more of the following criteria:

1. That is partially dismantled or wrecked;
2. That is not operable;
3. That is unlicensed;
4. That could not be safely or legally operated on a highway;
5. That has become a habitat for rodents, vermin or insects;
6. That in any other way constitutes a threat to the public health or safety; or
7. That has not been moved for a continuous period of more than 45 days.

B. "Motor vehicle" means any self-propelled land vehicle which can be used for towing or transporting people or materials, including but not limited to automobiles, trucks, buses, motorized campers, motorcycles, motor scooters, and tractors.

C. "Motor vehicle accessories" means any part or parts of any motor vehicle.

D. "Private property" means any real property not owned by the federal government, state, county, city school board or other public subdivisions.

E. "Removal" means the physical relocation of a motor vehicle to an authorized location. (Ord. 4799, 1988; Ord. 3115 §I(part), 1979; Prior code §4.18(1)).

8.36.020 Storage prohibited. A. It shall be unlawful for any person to allow, or any property owner to allow to be kept, any inoperative motor vehicle or motor vehicle accessories on any private property within the city.

B. No person, after notification to remove any inoperative motor vehicle or motor vehicle accessories from any private property has been given pursuant to this chapter, shall move the same to any other private property upon which such storage is not permitted or onto any public highway or other public property for purposes of storage. (Ord. 4799, 1988; Ord. 3115 §I(part), 1970; Prior code §4.18(2)).

8.36.030 Storage--Permitted when. A. This section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building, or on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or to seasonal use vehicles such as campers, etc. Such business enterprises shall include auto junk yards, auto repair and auto body shops but shall not include automobile service stations or tire, battery and accessory sales stores.

B. This chapter shall not apply to any motor vehicle or parts car which is legally stored pursuant to s. 341.266 of the Wisconsin Statutes. However, such storage shall be subject to local zoning rules and regulations. (Ord. 4799, 1988; Ord. 3115 §I(part), 1970; Prior code §4.18(3)).

8.36.040 Notice of removal. Any person found in violation of the provisions of this chapter shall be given written notice by the building inspector or that person's designee requiring compliance with the provision of this chapter within 14 days of mailing of that notice. The notice shall include a description of the inoperative motor vehicle or motor vehicle accessories, the location or address of the item(s) in violation, and that failure to comply with the provisions of this chapter may result in forfeitures being assessed. Additionally, the notice shall inform the violator that removal from the specified location to another location upon which such storage is not permitted is prohibited and shall subject the person to additional penalties. Notice is not required for second and subsequent violations occurring within a one-year period of the first violation of this chapter. (Ord. 6465, 2004; Ord. 5669 §2, 1996; Ord. 4799, 1988; Ord. 3115 §I(part), 1970; Prior code §4.18(4)(b)).

8.36.050 Violation--Penalties. A. Any person violating the provisions of this chapter shall upon conviction forfeit not less than \$25 nor more than \$200 for a first offense within a one- year period. Failure to make payment thereof shall result in confinement in the county jail for a period not to exceed 30 days.

B. Any person convicted of a violation of this chapter shall upon conviction forfeit not less than \$100 nor more than \$300 for a second offense within a one-year period. Failure to make payment thereof shall result in confinement in the county jail for a period not to exceed 30 days.

C. Any person convicted of a violation of this chapter shall upon conviction forfeit not less than \$200 nor more than \$500 for a third offense within a one-year period. Failure to make payment thereof shall result in confinement in the county jail for a period not to exceed 30 days.

D. Each day of violation shall constitute a separate offense, and where there is more than one inoperative vehicle involved, each vehicle constitutes a separate offense. (Ord. 4799, 1988; Ord. 3115 §I(part), 1970; Prior code §4.18(5)).

Chapter 8.40

MISCELLANEOUS SANITARY REGULATIONS*

Sections:

8.40.010 Health department.

8.40.020 Storm sewers--Prohibited material.

8.40.030 Rubbish disposal--River banks--Streets.

8.40.040 Odorous premises prohibited.

* For statutory provisions defining nuisances and granting powers of abatement and power to impose penalties for creating nuisances, see WSA 146.14.

- 8.40.050 Privies--Cleaning.**
- 8.40.060 Food processor--Storage buildings.**
- 8.40.070 Premises inspection--Violations investigation.**
- 8.40.080 Food and drink examination authority.**
- 8.40.090 Inspection--Right of entry.**
- 8.40.100 Secondhand goods--Clean before sale.**
- 8.40.110 Dense smoke--Nuisance when.**
- 8.40.120 Burning rubber.**
- 8.40.130 Coal dust.**
- 8.40.140 Noxious gases and odors.**
- 8.40.145 Storage of firewood.**
- 8.40.150 Police enforcement.**
- 8.40.160 Violation--Penalty.**

8.40.010 Health department. All the provisions and amendments of Section 140.09 of the Wisconsin Statutes for 1965 are adopted and by reference made a part of this chapter. (Prior code §4.01).

8.40.020 Storm Sewers--Prohibited material. It shall be unlawful to directly or indirectly discharge or cause to be discharged the following materials into any city storm sewer:

- A. Any gasoline, benzine, naphtha, fuel oil, motor oil or any other flammable or explosive liquid, solid or gas.
- B. Lawn clippings, leaves, dirt, sweepings or other refuse.
- C. Any other deleterious substances. (Ord. 6012, 2000; Ord. 4679, 1986; Prior code §4.02).

8.40.030 Rubbish disposal--River banks--Streets. A. No person shall throw or deposit or permit to be thrown or deposited any dirt, paper or filth, the sweepings of any house, store or shop or office, or any ashes, shavings, straw, wood, manure or rubbish of any kind into the Chippewa River or on the banks thereof or into the Eau Claire River or upon the banks thereof within the city.

B. It is unlawful and all persons are prohibited from placing, putting or throwing any leaves, straw, brush, tin cans, bottles, sticks, boards, ashes or any rubbish of any kind whatever or placing or throwing any swill, brine, urine, manure or any other filthy or offensive substance, or any stinking or nauseous liquid upon or along the sidewalk, street, alley or public place in the city. (Prior code §4.03).

8.40.040 Odorous premises prohibited. Every person owning, operating or having the charge, care and custody of any brewery, distillery, factory, soap making, soap boiling establishments, livery stable, hog pen or place where hogs are kept, or place where hides are bought, sold or stored in the city, shall keep the same together with all barns, sheds, outhouses, hog pens, hen roosts or other buildings connected therewith, in a cleanly and good condition, and so provide that no nauseous effluvia or smell shall arise or emanate therefrom. And no nauseous or filthy matter of any kind shall be allowed to remain in or about said premises. (Prior code §4.05).

8.40.050 Privies--Cleaning. Water closets and privies. Every person owning or having on any premises owned or occupied by him, any privy or water closet, shall cause the same to be thoroughly cleaned at least twice in every year; on and between the first day of April and the first day of November in each year. In addition to the provisions hereinbefore contained regarding the cleansing and cleaning of privies twice in each year, the city manager or the department of health may at any time, if in their judgment the health of the city requires it, direct any person owning or having upon any premises occupied by him, any privy or water closet, to thoroughly cleanse and clean the same and cause all offensive, noxious or filthy matter to be removed therefrom. And the health department may at any time require any person so having, on any premises owned or occupied by him, any such privy or water closet, to cause the same to be disinfected with such disinfecting material as such health department

may require or direct, and all privies, water closets and the vaults connected therewith shall be kept in a clean and good condition, so that no noxious smell or effluvia shall proceed, or emanate or arise therefrom. (Prior code §4.06).

8.40.060 Food processor--Storage buildings. A. All buildings and rooms used for manufacturing, preparing for sale, storing, offering, or exposing for sale or selling any food, drug, condiment or drink shall be kept in a clean sanitary condition, well lighted and ventilated, free from bad odors, dust, filth, flies and other contamination, or other unclean, unhealthful, unsanitary conditions.

B. All foods manufactured and prepared for sale during the process of its manufacture or its preparation for sale, shall be securely protected from filth, flies, dust or other contamination, or other unclean, unhealthful or unsanitary conditions. All foods stored or offered or exposed for sale, sold or delivered, shall be securely protected from filth, flies, dust or other contamination, or other unhealthy, or unsanitary conditions.

C. Any food, drug, condiment or drink manufactured, offered or exposed for sale or sold, stored or delivered contrary to the provisions of this chapter shall be subject to confiscation and may be seized and turned over to the proper authorities of the city, who may destroy the same. (Prior code §4.08).

8.40.070 Premises inspection--Violations investigation. It shall be the duty of the health department and of every policeman of the city to, at all reasonable times, examine slaughterhouses, packing houses, meat markets, butcher shops, breweries, distilleries, factories, soap boiling establishments, livery stables, privies and water closets in the city, and to inquire into any evasions or infractions or violations of any of the provisions of this chapter, and such officers shall have and be permitted at all reasonable hours of the day free access upon the premises of all such places named in this chapter, for the purpose of inspecting and examining the same. No person shall interfere with, hinder, delay, molest or prevent the health department or any policeman in the discharge of his duty, as prescribed by this chapter. (Prior code §4.07).

8.40.080 Food and drink examination authority. It shall be the duty of the health department, in addition to its other duties, to see that all the provisions of this chapter are complied with, and for that purpose may at frequent intervals inspect and ascertain the sanitary conditions of each place visited. Any of its officers or employees may enter any building, room or basement or any other place, in which there is, or they have good reason to believe that any food, drink, condiment or drug is manufactured, stored or offered for sale or sold, to inspect the same and inspect any food condiment or drink, prepared, stored, exposed, offered for sale or having in possession with intentions to sell or be sold, the quality of the ingredients used, the conditions of the apparatus, show cases, shelves and containers used in preparing, displaying, storing, shipping and delivering the same. The health department, its inspectors or agents shall have authority to stop and inspect any wagon, cart or vehicle used in delivering any of the above named foods. A sufficient number of samples shall upon request of the health director be delivered to said department free of charge for purposes of examination. (Prior code §4.09).

8.40.090 Inspection--Right of entry. No person shall obstruct or hinder the city health department or any of its inspectors or agents in the performance of their duties by refusing entrance to any place they are authorized to enter. (Prior code §4.10).

8.40.100 Secondhand goods--Clean before sale. No sale of cast-off or secondhand clothing, or wearing apparel of any kind, or secondhand bedding, household goods, furniture or articles shall hereafter be permitted to be sold at so called "Rummage Sales" within the city, without such castoff

clothing and wearing apparel and secondhand bedding, household goods, furniture and other similar articles first having been thoroughly fumigated, disinfected, renovated and cleansed under the direction and superintendency of the board of health of the city, and subsequently thereto examined and inspected by the board. (Prior code §4.11).

8.40.110 Dense smoke--Nuisance when. The emission of dense smoke, soot or cinders from the smokestack of any locomotive or from any chimney or smokestack is declared a nuisance and the same is prohibited. Smoke shall be deemed dense under the terms of this chapter when it contains soot or other substance in sufficient quantities to permit the deposit of such soot or other substances on any surface within the limits of the city. In these sections of the city zoned and districted as industrial zones the emission of dense smoke for a period of six minutes in any one hour during which the firebox is being cleaned out or a new fire being built therein is excepted from the provisions of this section. (Prior code §4.12).

8.40.120 Burning rubber. The burning or use of rubber tires, rubber products, tar, pitch, tar paper or other refuse for fuel, or otherwise, in any form giving off or producing dense smoke or offensive odors is prohibited. (Prior code §4.13).

8.40.130 Coal dust. No person shall for a period longer than forty-eight hours store coal in an open and exposed place to the wind unless such coal receives or has previously received treatment by oil, or by other equivalent process that will to an equal degree reduce the dust therefrom. This section shall not apply to industrial zones unless the location of such coal is in such close proximity to a dwelling(s) or other occupied structure as to be injurious to health or property or to create a nuisance. (Prior code §4.14).

8.40.140 Noxious gases and odors. Industries necessarily creating noxious gases or odors, upon order of the board of health, with not less than thirty days' written notice, shall whenever possible provide such purification or deodorant methods for the treatment of noxious gases as shall abate the condition or provide such ventilating equipment and diffusing stacks as shall discharge such noxious gases into the upper air at a height which will avoid nuisance, and all such structures and the operation and maintenance thereof shall be subject to the approval of the board of health. (Prior code §4.15).

8.40.145 Storage of firewood. Firewood may be stored in any yard other than the front yard or corner sideyard, provided that it is stored in a neat, orderly, and secure stack not exceeding 6 feet in height, and the wood stack is not infested with rodents. (Ord. 6483 §1, 2004).

8.40.150 Police enforcement. It shall be the duty of every police officer and sanitary inspector to see that Sections 8.40.110 through 8.40.140 inclusive are enforced. (Prior code §4.16).

8.40.160 Violation--Penalty. Any person, firm or corporation violating the provisions of this chapter shall upon conviction be fined not less than five dollars, nor more than one hundred dollars, for each and every offense, together with the cost of prosecution and upon failure to pay the same shall be confined in the county jail not more than thirty days unless such fine and costs are sooner paid. Each day of violation shall constitute a separate offense. (Prior code §4.17).

CHAPTER 8.44

UNDERGROUND UTILITIES REQUIRED

Sections:

8.44.010 Purpose.

8.44.020 Underground adaptation required.

8.44.030 Area affected.

8.44.040 Penalty.

8.44.010 Purpose. The City Council does hereby find and determine that the existence of utility poles, overhead wires, and related above-ground appurtenances located within the public street right of way constitute an interference with the public governmental use of the right of way and are unattractive aesthetically and the appearance thereof detracts from and is at variance with the appearance of the neighborhoods within which they are located; and that in the interest of the public health, safety and welfare, wherever possible said utilities should be placed underground. Where said utilities are placed underground, those premises receiving service from them should be adapted to the new underground service, thereby permitting the removal of such above-ground facilities. (Ord. 4342, 1983).

8.44.020 Underground adaptation required. Whenever the public electric utility serving property within the area described under section 8.44.030 hereof places its electric distribution lines underground, then and at that time the owner or occupant of each said property shall cause the electrical facilities and appurtenances upon and within each property to be so installed or modified as to be compatible with, and to permit the rendering of electric service through said underground electric distribution lines, so that poles, overhead wires and related above-ground appurtenances may be removed by said public electric utility from such area. (Ord. 4342, 1983).

8.44.030 Area affected. The area within which the provisions of section 8.44.020 hereof shall apply shall be as follows:

Bounded on the north by the Eau Claire River, on the south by the north line of East Lake Street, on the east by the west line of Barstow Street, and on the west by the Chippewa River. (Ord. 4342, 1983).

8.44.040 Penalty. Any person violating any of the provisions of this chapter shall, upon conviction thereof, forfeit not less than ten dollars nor more than one hundred dollars, together with the costs of prosecution, for each offense. For any violation existing longer than 30 days, the forfeiture for each day shall be not less than 50 dollars nor more than 200 dollars. In default of payment thereof, the violator shall be committed to the Eau Claire County Jail for a period not exceeding thirty days. Each day such violation continues shall constitute a separate offense. (Ord. 4342, 1983).